

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

THURSDAY, JUNE 10, 2021

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OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

Thursday, June 10, 2021

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to call, at 10:09 a.m., in Room CVC-200, Capitol Visitor Center, Hon. Jerrold Nadler [Chair of the Committee] presiding.

Present: Representatives Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass, Jeffries, Cicilline, Swalwell, Lieu, Raskin, Jayapal, Demings, Correa, Scanlon, Garcia, Neguse, McBath, Stanton, Dean, Escobar, Jones, Ross, Bush, Jordan, Chabot, Gohmert, Issa, Buck, Gaetz, Johnson of Louisiana, Biggs, McClintock, Steube, Tiffany, Massie, Roy, Bishop, Fischbach, Spartz, Fitzgerald, Bentz, and Owens.

Staff Present: Aaron Hiller, Deputy Chief Counsel; Arya Hariharan, Chief Oversight Counsel; David Greengrass, Senior Counsel; Moh Sharma, Director of Member Services and Outreach & Policy Advisor; Priyanka Mara, Professional Staff Member/Legislative Aide; Jordan Dashow, Professional Staff Member; Cierra Fontenot, Chief Clerk; John Williams, Parliamentarian; Ben Hernandez-Stern, Counsel, Crime Subcommittee; Anthony Valdez, Professional Staff Member/Legislative Aide, Immigration Subcommittee; Chris Hixon, Minority Staff Director; Tyler Grimm, Minority Chief Counsel for Policy and Strategy; Stephen Castor, Minority General Counsel; Ella Yates, Minority Member Services Director; Betsy Ferguson, Minority Senior Counsel; Ken David, Minority Counsel; Caroline Nabity, Minority Counsel; James Lesinski, Minority Counsel; Michael Koren, Minority Senior Professional Staff Member; Andrea Woodard, Minority Professional Staff Member; and Kiley Bidelman, Minority Clerk.

Chair NADLER. The House Committee on the Judiciary will come to order.

Without objection, the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to this morning's hearing on Oversight of the Federal Bureau of Investigation.

Before we begin, I would like to remind Members that we have established an email address and distribution list dedicated to circulating exhibits, motions, or other written materials that Mem-

bers might want to offer as part of our hearing today. If you would like to submit materials, please send them to the email address that has been previously distributed to your offices, and we will circulate the materials to Members and staff as quickly as we can.

Finally, I ask all Members, both those in person and those appearing remotely, to mute your microphones when you are not speaking. This will help prevent feedback and other technical issues. You may unmute yourself anytime you seek recognition.

I will now recognize myself for an opening statement.

First, thank you for being here today, Director Wray.

The world has certainly changed since your last visit to the Committee. When you were last here, the COVID-19 pandemic had not yet swept the globe, George Floyd was still alive, and we had not yet witnessed a terrorist attack on the United States Capitol.

Given the important work of the FBI in bringing the perpetrators of that terrorist attack to justice, we have little choice in this hearing but to confront the reality of January 6 head-on. The reality is that, unlike past intelligence failures, where analysts might have failed to connect isolated pieces of classified information, we all saw this one coming. The attack on the United States Capitol was planned in public view.

The events unfolded on cable news for all to see. President Trump used the full media reach of the White House to convince his supporters that the election had been stolen, told them to gather in Washington on January 6, then stood on a public stage and directed them to march to the Capitol.

Now, some of my Republican colleagues insist that we should just push this unpleasant incident aside. They would rebrand these traitors as mere tourists. They would rather we forget or move on or look the other way.

How exactly our walls were breached that day may never be fully known, because those same Republicans continue to block the passage of a bipartisan bill to establish a bipartisan commission to investigate the events of January 6.

The criminals who breached the Capitol, who attacked the police, and who sought to capture and murder our leadership did so with the express purpose of disrupting our democracy. These were no tourists; they were insurrectionists. I, for one, will not simply look away.

I would now direct your attention to the screen for a brief video.

[Video available at <https://www.dropbox.com/s/hmml7mk0f1sfw0r/2021-06-10%20Oversight%20of%20the%20FBI%20Nadler%20Video.mp4?dl=0>]

Chair NADLER. Tourists, indeed.

That attack is very much still with us, Director Wray. The threat is ongoing, and we need your help to do the work of reckoning with it.

For a start, we need to understand what the Bureau knew in the run-up to the attack, when it knew it, and what prevented it from disrupting the work of the terrorists who planned it.

Because we know the attack was not a spontaneous event. The events of January 6 were largely choreographed in advance. The attack was planned in the open on popular social media platforms. Right-wing militia groups trained for it. Maps of the Capitol

Grounds circulated online long before the crowds arrived in Washington.

Of course, President Trump and his allies had been whipping his supporters into a frenzy for weeks. He urged them to march to the Capitol to, quote, “stop the steal.” He told them their country would not survive the day unless they were willing to fight. He promised them it would be wild.

According to the bipartisan Senate report released earlier this week, quote, “The FBI issued 15 intelligence products in 2020 related to domestic violence extremism, the last of which was issued on December 30 without any mention of the joint session of Congress or the Capitol,” unquote.

We need an explanation for that silence, Director Wray, because in the lead-up to the attack, in report after report, your field agents tried to sound the alarm.

To be clear, Director Wray, I know that you take the attack on the Capitol as seriously as anybody and that under your direction the FBI is engaged in a massive undertaking to bring the perpetrators of the attack to justice.

The FBI’s inaction in the weeks leading up to January 6 is simply baffling. It is hard to tell whether FBI headquarters merely missed the evidence which had been flagged by your field offices and was available online for all the world to see or whether the Bureau saw the intelligence, underestimated the threat, and simply failed to act. Neither is acceptable. We need your help to get to the bottom of it.

We also need your help to get at the root causes of the attack, the extremism and racism that, to be sure, has been with the Nation since before its founding but that former President Trump and others have encouraged and would exploit for political gain.

This is not a rhetorical problem. The threat of White nationalism and far-right extremism is very real. Studies show a surge of hate crimes plagues our country right now. I know you to be a man of good conscience and that you condemn these acts of hatred in the strongest possible terms, but the time has come to put the resources of the Bureau where they belong.

A recent study found that, quote, “White supremacists and other like-minded extremists conducted two-thirds of the terrorist plots and attacks in the United States in 2020,” unquote, and the time has come for the FBI to confront this threat directly.

For too long, the FBI has downplayed the threat of White nationalism, focusing instead on far more distant threats and occasionally on imaginary threats like Black identity extremism. Although the FBI no longer uses that particular term, I am just as disturbed by the Bureau’s current practice of lumping together a wide range of activities under the term “racially motivated violent extremism” as if there were any equivalence whatsoever between Black and Brown activists marching for justice and the right-wing extremists who attacked the Capitol Police and tried to hang Mike Pence.

The FBI must prioritize this threat. The Bureau cannot be afraid to call these groups by their names. The Oath Keepers, the Proud Boys, neo-Nazis, and other similar organizations pose an immediate threat to my colleagues, my constituents, and my family.

The FBI must also do the hard work of keeping itself honest. Ample evidence shows that the crowd that stormed the Capitol was full of off-duty police and military personnel. Accordingly, it is past time for the FBI to begin what the Department of Homeland Security and the Pentagon have already begun, a full internal review of White supremacist membership within the Bureau.

I do not mean to downplay your service to the country during the chaotic last few years. These have been trying times, and I can only imagine what it must be like to do your job in the shadow of a President who reportedly threatened to fire you for your refusing to launch baseless investigations of his political opponents.

In particular, I want to commend the Bureau for its work on the security of our election systems. The FBI is charged with preventing both mechanical meddling and disinformation campaigns. Your work to secure the 2020 election led to one of the most secure elections in our lifetime, and we owe you a debt of gratitude for that.

I look forward to hearing more from you on how the Bureau will continue to secure voting systems and to safeguard the right to vote next November.

That work is critical, because, at base, trust in our democracy is what keeps our country vibrant and strong. Faith in our democratic institutions binds diverse people with different values and different backgrounds together in common cause. In the wake of the insurrection, nothing could be more important in your work or mine than rebuilding that trust.

Thank you again for being here today. I look forward to your testimony.

I now recognize the Ranking Member of the Judiciary Committee, the gentleman from Ohio, Mr. Jordan, for his opening statement.

Mr. JORDAN. Thank you, Mr. Chair.

Director Wray, thank you for being here.

Over the past several years, Americans have seen their liberties attacked. Every right— we enjoy under the First Amendment has been assaulted, every single one—your right to worship, your right to assemble, your right to petition, freedom of the press, freedom of speech—every single one.

There are places today where a full congregation can still not meet on a Sunday morning. Your right to assemble? Four weeks ago, I spoke to the New Mexico Republican Party in Amarillo, Texas. They had to go to Texas for freedom, because they weren't allowed to assemble in their own State.

Your right to petition your government? We sit here today on Capitol Hill having an important hearing with the Director of the FBI, but our constituents can't come to their Capitol, lobby their Member of Congress to redress their grievances, because the Speaker of the House won't let them in.

Freedom of the press? Maybe the best example is, the President won't go to the border, the Vice President won't go to the border. When Secretary Mayorkas went to the border, he wouldn't let the press in the very facilities he was touring.

Of course, freedom of speech, we all know what has happened to that. Big Tech censoring conservatives, the cancel-culture mob at-

tacking anyone who disagrees with them, deplatforming the sitting President of the United States, Democrats writing letters to the network carriers telling them to take certain news organizations off their platform.

Freedom is under attack, and, Director, a lot of Americans think you are part of the problem.

Before you got there, the Comey FBI spied on the Trump campaign. Over the last three years, the FBI labeled the baseball field shooting where our friend and colleague Steve Scalise was shot, labeled that “suicide by cop,” for three years. We know the guy set out to go after Republicans. He had a piece of paper in his pocket with six Republican names on it. Somehow, the FBI thought it was suicide by cop. Thank goodness you have changed that.

More recently, the FBI raided the New York apartment of Mayor Giuliani, the President’s personal lawyer, former U.S. attorney, ran the Southern District of New York office. According to press accounts, he said he was willing to give whatever information you all wanted, whatever the Justice Department wanted. No, you kicked in his door instead.

How about the couple in Alaska? Paul and Marilyn Hueper. They sure witnessed an attack on their liberty in an up close and personal way. The FBI kicked in their door, handcuffed them, held them at gunpoint, interrogated them for four hours in their own home. There was just one problem: They had the wrong people. Had the wrong people. Took their phones, took their laptop, took a pocket-size copy of the Constitution. There has to be some irony in that.

Then there is FISA. In 2018, FISA Court Judge Boasberg said there were major privacy violations by the FBI. In 2019, Inspector General Horowitz did two investigations. The first one was on the Carter Page FISA application. He found 17 errors in that one, 51 wrong or unsupported statements in that FISA application—17 errors, 51 wrong statements. That is a nice way of saying “68 lies” that were taken to the FISA court. Mr. Horowitz then looked at 25 randomly sampled FISA applications, specifically the Woods file, the underlying documents that support what is taken to the court. In every single one, he said there was a problem, all 25. In four of them, he couldn’t even find the Woods file.

The last time the Director was in front of us, February of last year, you told us everything was fine. You said this: Quote, “Americans should not lose sleep over the FISA application process.”

Just two months ago, Judge Boasberg was back with another report, and he said there are, quote, “apparent widespread violations” by the FBI of the standards they have in place to deal with section 702 of FISA.

Which raises a sort of fundamental question: Why are you using the Foreign Intelligence Surveillance Act to spy on Americans, Director?

I appreciate the tough job you have and the good work, the good work, that the vast majority of your agents I think do. Freedom-loving Americans have concerns about their liberty, but they also have concerns about the opportunity cost.

When you are kicking in the door of the President’s lawyer, when you are interrogating an innocent couple for four hours, when you

are spying on Americans, then, by definition, that means there are fewer resources going to stop terrorists at our southern border, stopping cyber-attacks, prosecuting Antifa, terrorists, and other rioters who attacked law enforcement, small businesses, the Capitol, and did over a billion dollars of damage over the last year. Frankly, that also means there are fewer resources to figure out where this virus started.

So, we are going to have some tough questions for you, Director. We appreciate you being here, and we trust that you are going to answer our questions, are going to answer them directly. Because, again, when you think about what Americans have had to live through, the rights that they have that have been infringed as citizens of this great country, it is a serious time. So, we hope you will answer the tough questions that will come from the Republican side.

With that, Mr. Chair, I yield back.

Chair NADLER. Thank you, Mr. Jordan.

Without objection, all other opening statements will be included in the record.

Chair NADLER. We will now introduce today's Witness.

Christopher Wray became the eighth Director of the FBI on August 2, 2017.

Director Wray began his law enforcement career in 1997, serving the Department of Justice as an Assistant U.S. Attorney for the Northern District of Georgia. In 2001, he was named Associate Deputy Attorney General and then Principal Associate Deputy Attorney General in the Office of the Deputy Attorney General in Washington, DC.

Mr. Wray was nominated by President George Bush in 2003 to be the Assistant Attorney General for DOJ's Criminal Division, which included the Counterterrorism section and the Counterintelligence and Export Control section at the time.

In addition to his extensive time in public service, Mr. Wray has spent a total of almost 17 years practicing law in the international law firm of King & Spalding, LLP, working in the area of government investigations and white-collar crime. At the time of his nomination to be FBI Director, Mr. Wray was chair of the firm's Special Matters and Government Investigations Practice Group.

He graduated with a bachelor's degree from Yale University in 1989 and earned his law degree from Yale Law School in 1992. He also clerked for Judge J. Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit.

We welcome Director Wray, and we thank him for participating today.

Now, if you would please rise, I will begin by swearing you in.

Do you swear or affirm, under penalty of perjury, that the testimony you are about to give is true and correct, to the best of your knowledge, information, and belief, so help you God?

Let the record show that the Witness has answered in the affirmative.

Thank you, and please be seated.

Please note that your written statement will be entered into the record in its entirety. Accordingly, I ask that you summarize your testimony in five minutes.

To help you stay within that time, there is a timing light on your table. When the light switches from green to yellow, you have one minute to conclude your testimony. When the light turns red, it signals your five minutes have expired.

Director Wray, you may begin.

TESTIMONY OF THE HONORABLE CHRISTOPHER WRAY

Mr. WRAY. Good morning, Chair Nadler, Ranking Member Jordan, and the Members of the Committee. Thank you for this opportunity to talk about the FBI's enduring efforts to keep the American people safe.

As you know, over our almost-113-year history, the FBI has worked tirelessly alongside our trusted partners to confront a host of threats facing our country, from the persistent threat posed by terrorists both foreign and domestic, to the counterintelligence threat posed by the governments of aggressive adversaries like China and Russia, to the scourge of violence threatening our neighborhoods, to the rising and evolving threat posed by cyber criminals who seek to hold hostage our companies and our critical infrastructure.

I suspect we'll be covering these and other topics today, but I'd like to start by discussing an issue that is of utmost concern to me, to you, and to all Americans, which is the prevalence of violence in our country.

Over the last few years, we've witnessed the troubling phenomenon of people resorting to violence and destruction of property to further their ideological, political, or social goals. Far too often, we are seeing individuals inspired by one or more extremist ideologies to commit criminal acts against their fellow Americans.

Now, the FBI does not and should not police ideology, and we do not investigate groups or individuals based on the exercise of First Amendment-protected activity alone. When we encounter violence and threats to public safety, the FBI will not hesitate to take appropriate action.

That is not a controversial issue that should force anyone to take sides. We can all agree that violence in any form, in support of any set of beliefs, cannot and will not be tolerated, because violence undermines one of the most basic freedoms of all Americans, the right to feel safe and secure in our own homes and communities.

We saw this kind of extremist violence on January 6 when an angry mob used violence and the destruction of property to break into the U.S. Capitol in a failed attempt to undermine our institutions of government and our democratic process, an assault where you, the Members of Congress, were victims, where all Americans were victimized and more than 100 law enforcement officers were injured in just a few hours.

Through the dogged work of FBI agents, analysts, and professionals, working alongside Federal, State, and local partners, we've been able to make close to 500 arrests so far, with more to come.

We also saw extremist violence during last summer's civil unrest. Although most citizens made their voices heard through peaceful, lawful protests, others, far too many, persistently exploited those protests to pursue violent extremist agendas. In Portland alone,

hundreds of law enforcement officers sustained injuries and damage to Federal buildings was estimated in the millions of dollars.

Across the country, Federal, State, and local authorities arrested thousands of individuals who committed criminal acts surrounding those protests. Nearly every one of the FBI's 56 field offices opened investigations, amounting to hundreds of investigations, involving violent and destructive conduct.

More recently, we've seen an alarming increase in hate crimes across the country, many targeting Members of the Asian-American/Pacific Islander and Jewish communities. In some cases, these crimes are carried out by individuals we characterize as racially and ethnically motivated violent extremists.

To confront this threat, we've taken a multipronged approach, focusing on our traditional investigative efforts through our civil rights program and our Domestic Terrorism-Hate Crimes Fusion Cell that we created about a year and a half ago, but also enhancing our law enforcement training, public outreach, and support to our State and local partners.

Our efforts to stem extremist violence are on top of our continued and extensive work to disrupt violent gangs, drug organizations, and human traffickers whose criminal acts devastate families and communities.

For many of you, violent crime remains the most significant and most pernicious threat you face in your own district. In difficult times like these, we must never forget the extraordinary bravery of our Federal, State, local, and Tribal law enforcement Members, who risk life and safety every single day to protect the public and keep the peace.

I say that because, over the past year, we've seen a troubling uptick in violence against Members of the law enforcement community. In just the first five months of 2021, 36 officers have been feloniously killed on the job. That's far surpassing the number by this time last year. To put that in perspective, that's almost two law enforcement officers shot and killed every week.

That's not counting all those officers who've died in the line of duty facing the countless other inherent dangers of the job, like racing in pursuit of a suspect and dying in a car accident or drowning in an attempted rescue, or even the scores of officers who've died from COVID-19, because law enforcement, of course, kept coming to work every day, right through the teeth of the pandemic.

Nor is it counting all those officers who've been badly injured but thankfully survived but whose lives and whose families' lives have been forever changed.

Now, the loss of any agent or officer is heartbreaking for their families, for their departments, for their communities that they serve. We in the FBI know that all too well, with the terrible, terrible loss of Special Agents Laura Schwartzenberger and Dan Alfin this past February, shot and killed down near Miami.

Each one of the officers and the agents we've lost this year were people who got up one morning, picked up their badge, not knowing whether they'd make it home that night. They did their jobs despite all the hardships they've faced in this almost epically difficult year, because they were devoted to protecting their fellow Americans, both friends and strangers alike. We owe these dedicated

public servants a debt of gratitude. More than that, we owe them our best efforts to help stem the tide of violence.

All of us here today have a shared responsibility to take a stand, to protect our communities, to support those who serve in law enforcement, and to condemn violence regardless of its motivation. We in the FBI are ready to do that exactly, to use all the tools at our disposal to uphold the rule of law and to fulfill our mission to protect every American. Because there is simply no place in this country for hatred, intolerance, or violence regardless of its motivation, ideology, or otherwise.

So, thank you for taking the time to hear from me today. I look forward to answering your questions.

[The statement of Mr. Wray follows:]



Department of Justice

STATEMENT OF

**CHRISTOPHER A. WRAY
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION**

**BEFORE THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES**

**AT A HEARING ENTITLED
“OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION”**

**PRESENTED
JUNE 10, 2021**

**STATEMENT OF
CHRISTOPHER A. WRAY
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION**

**BEFORE THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES**

**AT A HEARING ENTITLED
“FBI OVERSIGHT”**

**PRESENTED
JUNE 10, 2021**

Good morning, Chairman Nadler, Ranking Member Jordan, and Members of the Committee. I am honored to be here, representing the men and women of the FBI. Our people — nearly 37,000 of them — are the heart of the Bureau. I am proud of their service and their commitment to our mission. Every day, they tackle their jobs with perseverance, professionalism, and integrity — sometimes at the greatest of costs.

Earlier this year, two of our agents made the ultimate sacrifice in the line of duty. Special Agents Dan Alfin and Laura Schwartzenberger left home to carry out the mission they signed up for — to keep the American people safe. They were executing a federal court-ordered search warrant in a violent crimes against children investigation in Sunrise, Florida, when they were shot and killed. Three other agents were also wounded that day. We’ll be forever grateful for their commitment and their dedication — for their last full measure of devotion to the people they served and defended. We will always honor their sacrifice.

Despite the many challenges our FBI workforce has faced, I am immensely proud of their dedication to protecting the American people and upholding the Constitution. Our country has faced unimaginable challenges this past year. Yet, through it all, whether it was coming to the aid of our partners during the Capitol siege and committing all of our resources to ensuring that those involved in that brutal assault on our Democracy are brought to justice, the proliferation of terrorist violence moving at the speed of social media, abhorrent hate crimes, COVID-19 related fraud and misinformation, the increasing threat of cyber intrusions and state-sponsored economic espionage, malign foreign influence and interference, the scourge of opioid trafficking and abuse, or human trafficking and crimes against children, the women and men of the FBI have unwaveringly stood at the ready and taken it upon themselves to tackle any and all challenges thrown their way.

The list of diverse threats we face underscores the complexity and breadth of the FBI's mission: to protect the American people and uphold the Constitution of the United States. I am pleased to have received your invitation to appear today and am looking forward to engaging in a thorough, robust, and frank discussion regarding some of the most critical matters facing our organization and the Nation as a whole.

Capitol Violence

First and foremost, I want to assure you, your staff, and the American people that the FBI has deployed our full investigative resources and is working closely with our federal, State, local, Tribal, and territorial partners to aggressively pursue those involved in criminal activity during the events of January 6, 2021. We are working closely with our federal, state, and local law enforcement partners, as well as private sector partners, to identify those responsible for the violence and destruction of property at the U.S. Capitol building who showed blatant and appalling disregard for our institutions of government and the orderly administration of the democratic process.

FBI Special Agents, Intelligence Analysts, and professional staff have been hard at work gathering evidence, sharing intelligence, and working with federal prosecutors to bring charges against the individuals involved. As we have said consistently, we do not and will not tolerate violent extremists who use the guise of First Amendment-protected activity to engage in violent criminal activity. Thus far, the FBI has arrested hundreds of individuals with regards to rioting, assault on a federal officer, property crimes violations, and conspiracy charges, and the work continues.

Overall, the FBI assesses that the January 6th siege of the Capitol Complex demonstrates a willingness by some to use violence against the government in furtherance of their political and social goals. This ideologically motivated violence underscores the symbolic nature of the National Capital Region and the willingness of some Domestic Violent Extremists to travel to events in this area and violently engage law enforcement and their perceived adversaries. The American people should rest assured that we will continue to work to hold accountable those individuals who participated in the violent breach of the Capitol on January 6th, and any others who attempt to use violence to intimidate, coerce, or influence the American people or affect the conduct of our government.

Top Terrorism Threats

As has been stated multiple times in the past, preventing terrorist attacks, from any place, by any actor, remains the FBI's top priority. The nature of the threat posed by terrorism – both international terrorism (“IT”) and domestic terrorism (“DT”) – continues to evolve.

The greatest terrorism threat to our Homeland is posed by lone actors or small cells who typically radicalize online and look to attack soft targets with easily accessible weapons. We see these threats manifested within both Domestic Violent Extremists (“DVEs”) and

Homegrown Violent Extremists (“HVEs”), two distinct threats, both of which are located primarily in the United States and typically radicalize and mobilize to violence on their own. Individuals who commit violent criminal acts in furtherance of social or political goals stemming from domestic influences – some of which include racial or ethnic bias, or anti-government or anti-authority sentiments – are described as DVEs, whereas HVEs are individuals who are inspired primarily by global jihad but are not receiving individualized direction from Foreign Terrorist Organizations (“FTOs”).

Domestic and Homegrown Violent Extremists are often motivated and inspired by a mix of socio-political, ideological, and personal grievances against their targets, and more recently have focused on accessible targets to include civilians, law enforcement and the military, symbols or members of the U.S. Government, houses of worship, retail locations, and mass public gatherings. Selecting these types of soft targets, in addition to the insular nature of their radicalization and mobilization to violence and limited discussions with others regarding their plans, increases the challenge faced by law enforcement to detect and disrupt the activities of lone actors before they occur.

The top threat we face from DVEs continues to be from those we categorize as Racially or Ethnically Motivated Violent Extremists (“RMVEs”), largely those who advocate for the superiority of the white race, who were the primary source of lethal attacks perpetrated by DVEs in 2018 and 2019. It is important to note that we have also recently seen an increase in fatal DVE attacks perpetrated by Anti-Government or Anti-Authority Violent Extremists, specifically Militia Violent Extremists and Anarchist Violent Extremists. Anti-Government or Anti-Authority Violent Extremists were responsible for three of the four lethal DVE attacks in 2020. Also, in 2020, we saw the first lethal attack committed by an Anarchist Violent Extremist in over 20 years.

Consistent with our mission, the FBI does not investigate First Amendment-protected speech or association, peaceful protests, or political activity. The FBI holds sacred the rights of individuals to peacefully exercise their First Amendment freedoms. Non-violent protests are signs of a healthy democracy, not an ailing one. Regardless of their specific ideology, the FBI will aggressively pursue those who seek to hijack legitimate First Amendment-protected activity by engaging in violent criminal activity such as the destruction of property and violent assaults on law enforcement officers that we witnessed on January 6th and during protests throughout the U.S. during the summer of 2020 and beyond. In other words, we will actively pursue the opening of FBI investigations when an individual uses – or threatens the use of – force, violence, or coercion, in violation of federal law and in the furtherance of social or political goals.

The FBI assesses HVEs are the greatest, most immediate IT threat to the Homeland. As I have described, HVEs are located in and radicalized primarily in the United States, who are not receiving individualized direction from global jihad-inspired FTOs but are inspired largely by the Islamic State of Iraq and ash-Sham (“ISIS”) and al-Qa’ida to commit violence. An HVE’s lack of a direct connection with an FTO, ability to rapidly mobilize without detection,

and use of encrypted communications pose significant challenges to our ability to proactively identify and disrupt them.

The FBI remains concerned that FTOs, such as ISIS and al-Qa'ida, intend to carry out or inspire large-scale attacks in the United States. Despite its loss of physical territory in Iraq and Syria, ISIS remains relentless in its campaign of violence against the United States and our partners – both here at home and overseas. To this day, ISIS continues to aggressively promote its hate-fueled rhetoric and attract like-minded violent extremists with a willingness to conduct attacks against the United States and our interests abroad. ISIS' successful use of social media and messaging applications to attract individuals seeking a sense of belonging is of continued concern to us. Like other foreign terrorist groups, ISIS advocates for lone offender attacks in the United States and Western countries via videos and other English language propaganda that have at times specifically advocated for attacks against civilians, the military, law enforcement and intelligence community personnel.

Al-Qa'ida maintains its desire to both conduct and inspire large-scale, spectacular attacks. Because continued pressure has degraded some of the group's senior leadership, in the near term, we assess al-Qa'ida is more likely to continue to focus on cultivating its international affiliates and supporting small-scale, readily achievable attacks in regions such as East and West Africa. Over the past year, propaganda from al-Qa'ida leaders continued to seek to inspire individuals to conduct their own attacks in the United States and other Western nations.

Iran and its global proxies and partners, including Iraqi Shia militant groups, continue to attack and plot against the United States and our allies throughout the Middle East in response to U.S. pressure. Iran's Islamic Revolutionary Guard Corps-Qods Force ("IRGC-QF") continues to provide support to militant resistance groups and terrorist organizations. Iran also continues to support Lebanese Hezbollah and other terrorist groups. Lebanese Hezbollah has sent operatives to build terrorist infrastructures worldwide. The arrests of individuals in the United States allegedly linked to Lebanese Hezbollah's main overseas terrorist arm, and their intelligence collection and procurement efforts, demonstrate Lebanese Hezbollah's interest in long-term contingency planning activities here in the Homeland. Lebanese Hezbollah Secretary-General Hasan Nasrallah also has threatened retaliation for the death of IRGC-QF Commander Qassem Soleimani.

As an organization, we continually adapt and rely heavily on the strength of our federal, state, local, Tribal, territorial, and international partnerships to combat all terrorist threats to the United States and our interests. To that end, we use all available lawful investigative techniques and methods to combat these threats while continuing to collect, analyze, and share intelligence concerning the threat posed by violent extremists, in all their forms, who desire to harm Americans and U.S. interests. We will continue to share information and encourage the sharing of information among our numerous partners via our Joint Terrorism Task Forces across the country, and our Legal Attaché offices around the world.

Lawful Access

The problems caused by law enforcement agencies' inability to access electronic evidence continue to grow. Increasingly, commercial device manufacturers have employed encryption in such a manner that only the device users can access the content of the devices. This is commonly referred to as "user-only-access" device encryption. Similarly, more and more communications service providers are designing their platforms and apps such that only the parties to the communication can access the content. This is generally known as "end-to-end" encryption. The proliferation of end-to-end and user-only-access encryption is a serious issue that increasingly limits law enforcement's ability, even after obtaining a lawful warrant or court order, to access critical evidence and information needed to disrupt threats, protect the public, and bring perpetrators to justice.

The FBI remains a strong advocate for the wide and consistent use of responsibly-managed encryption – encryption that providers can decrypt and provide to law enforcement when served with a legal order. Protecting data and privacy in a digitally connected world is a top priority for the FBI and the U.S. government, and we believe that promoting encryption is a vital part of that mission. But we have seen that the broad application of end-to-end and user-only-access encryption adds negligible security advantages. It does have a negative effect on law enforcement's ability to protect the public. What we mean when we talk about lawful access is putting providers who manage encrypted data in a position to decrypt it and provide it to us in response to legal process. We are not asking for, and do not want, any "backdoor," that is, for encryption to be weakened or compromised so that it can be defeated from the outside by law enforcement or anyone else. Unfortunately, too much of the debate over lawful access has revolved around discussions of this "backdoor" straw man instead of what we really want and need.

We are deeply concerned with the threat end-to-end and user-only-access encryption pose to our ability to fulfill the FBI's duty of protecting the American people from every manner of federal crime, from cyber-attacks and violence against children to drug trafficking and organized crime. We believe Americans deserve security in every walk of life – in their data, their streets, their businesses, and their communities.

End-to-end and user-only-access encryption erode that security against every danger the FBI combats. For example, even with our substantial resources, accessing the content of known or suspected terrorists' data pursuant to court-authorized legal process is increasingly difficult. The often-online nature of the terrorist radicalization process, along with the insular nature of most of today's attack plotters, leaves fewer dots for investigators to connect in time to stop an attack – and end-to-end and user-only-access encryption increasingly hide even those often precious few and fleeting dots.

In one instance, while planning and right up until the eve of the December 6, 2019, shooting at Naval Air Station Pensacola that killed three U.S. sailors and severely wounded

eight other Americans, deceased terrorist Mohammed Saeed Al-Shamrani communicated undetected with overseas al-Qa'ida terrorists using an end-to-end encrypted app. Then, after the attack, user-only-access encryption prevented the FBI from accessing information contained in his phones for several months. As a result, during the critical time period immediately following the shooting and despite obtaining search warrants for the deceased killer's devices, the FBI could not access the information on those phones to identify co-conspirators or determine whether they may have been plotting additional attacks.

This problem spans international and domestic terrorism threats. Like Al-Shamrani, the plotters who sought to kidnap the Governor of Michigan late last year used end-to-end encrypted apps to hide their communications from law enforcement. Their plot was only disrupted by well-timed human source reporting and the resulting undercover operation. Subjects of our investigation into the January 6 Capitol siege used end-to-end encrypted communications as well.

We face the same problem in protecting children against violent sexual exploitation. End-to-end and user-only-access encryption frequently prevent us from discovering and searching for victims, since the vital tips we receive from providers only arrive when those providers themselves are able to detect and report child exploitation being facilitated on their platforms and services. They cannot do that when their platforms are end-to-end encrypted. For example, while Facebook Messenger and Apple iMessage each boasts over one billion users, in 2020, the National Center for Missing and Exploited Children ("NCMEC") received over 20 million tips from Facebook¹, compared to 265 tips from Apple, according to NCMEC data and publicly available information. Apple's use of end-to-end encryption, which blinds it to child sexual abuse material being transmitted through its services, likely plays a role in the disparities in reporting between the two companies. We do not know how many children are being harmed across the country as a result of this under-reporting by Apple and other end-to-end providers.

When we are able to open investigations, end-to-end and user-only-access encryption makes it much more difficult to bring perpetrators to justice. Much evidence of crimes against children, just like many other kinds of crime today, exists primarily in electronic form. If we cannot obtain that critical electronic evidence, our efforts are frequently hamstrung.

This problem is not just limited to federal investigations. Our State and local law enforcement partners have been consistently advising the FBI that they, too, are experiencing similar end-to-end and user-only-access encryption challenges, which are now being felt across the full range of State and local criminal law enforcement. Many report that even relatively unsophisticated criminal groups, like street gangs, are frequently using user-only-access encrypted smartphones and end-to-end encrypted communications apps to shield their activities from detection or disruption. As this problem becomes more and more acute for State and local law enforcement, the advanced technical resources needed to address even a single investigation

¹Facebook is planning to move its Facebook Messenger platform to end-to-end encryption as a default in the near future. This will result in the loss of even these tips.

involving end-to-end and user-only-access encryption will continue to diminish and ultimately overwhelm State and local capacity to investigate even common crimes.

Cyber

In 2020, nation-state and criminal cyber actors took advantage of people and networks made more vulnerable by the sudden shift of our personal and professional lives online due to the COVID-19 pandemic, targeting those searching for personal protective equipment, worried about stimulus checks, and conducting vaccine research.

Throughout the last year, the FBI has seen a wider-than-ever range of cyber actors threaten Americans' safety, security, and confidence in our digitally connected world. But these threats will not disappear when the pandemic ends. Cyber-criminal syndicates and nation-states keep innovating ways to compromise our networks and maximize the reach and impact of their operations, such as by selling malware as a service or by targeting vendors as a way to access scores of victims by hacking just one provider.

These criminals and nation-states believe that they can compromise our networks, steal our property, and hold our critical infrastructure at risk without incurring any risk themselves. In the last year alone, we have seen — and have publicly called out — China, North Korea, and Russia for using cyber operations to target U.S. COVID-19 vaccines and research. We have seen the far-reaching disruptive impact a serious supply-chain compromise can have through the SolarWinds intrusions, conducted by the Russian SVR. We have seen China working to obtain controlled defense technology and developing the ability to use cyber means to complement any future real-world conflict. We have seen Iran use cyber means to try to sow divisions and undermine our elections, targeting voters before the November election and threatening election officials after.

As dangerous as nation-states are, we do not have the luxury of focusing on them alone. In the past year, we also have seen cyber criminals target hospitals, medical centers, and educational institutions for theft or ransomware. Such incidents affecting medical centers have led to the interruption of computer networks and systems that put patients' lives at an increased risk at a time when America faces its most dire public health crisis in generations. And we have seen criminal groups targeting critical infrastructure for ransom, causing massive disruption to our daily lives.

We are also seeing dark web vendors who sell capabilities in exchange for cryptocurrency increase the difficulty of stopping what would once have been less dangerous offenders. What was once a ring of unsophisticated criminals now has the tools to paralyze entire hospitals, police departments, and businesses with ransomware. It is not that individual hackers alone have necessarily become much more sophisticated, but — unlike previously — they are able to rent sophisticated capabilities.

We have to make it harder and more painful for hackers and criminals to do what they are doing. That is why I announced a new FBI cyber strategy last year, using the FBI's role as the lead federal agency with law enforcement and intelligence responsibilities to not only pursue our own actions, but to work seamlessly with our domestic and international partners to defend their networks, attribute malicious activity, sanction bad behavior, and take the fight to our adversaries overseas. We must impose consequences on cyber adversaries and use our collective law enforcement and intelligence capabilities to do so through joint and enabled operations sequenced for maximum impact. And we must continue to work with the Department of State and other key agencies to ensure that our foreign partners are able and willing to cooperate in our efforts to bring the perpetrators of cybercrime to justice.

An example of this approach is the international takedown in January 2021 of the Emotet botnet, which enabled a network of cyber criminals to cause hundreds of millions of dollars in damages to government, educational, and corporate networks. The FBI used sophisticated techniques, our unique legal authorities, and, most importantly, our worldwide partnerships to significantly disrupt the malware.

A few months ago, cybersecurity companies including Microsoft disclosed that hackers were using previously unknown vulnerabilities related to Microsoft Exchange software to access email servers that companies physically keep on their premises rather than in the cloud. These "zero day" vulnerabilities allowed the actors to potentially exploit victim networks, engaging in activities such as grabbing login credentials, installing malicious programs to send commands to the victim network, and stealing emails in bulk. The FBI first put out a joint advisory in partnership with the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency ("CISA") to give network defenders the technical information they needed to mitigate the vulnerability. However, while many infected system owners successfully removed the web shells others were not able to do so. That left many systems vulnerable to adversaries who could continue to steal information, encrypt data for ransom, or potentially even execute a destructive attack. In response, through a court-authorized operation in partnership with the private sector, we were able to copy and remove malicious web shells from hundreds of vulnerable computers in the U.S. running Microsoft Exchange Server software. This is another example of how the FBI used its unique authorities, in this case, court-issued legal process, and its partnerships with the private sector to have tangible, real-world impact on the problem.

We took upwards of 1,100 actions against cyber adversaries last year, including arrests, criminal charges, convictions, dismantlements, and disruptions, and enabled many more actions through our dedicated partnerships with the private sector, foreign partners, and at the federal, State, and local entities.

We have been putting a lot of energy and resources into all of those partnerships, especially with the private sector. We are working hard to push important threat information to network defenders, but we have also been making it as easy as possible for the private sector to share important information with us. For example, we are emphasizing to the private sector

how we keep our presence unobtrusive in the wake of a breach; how we protect information that companies, and universities share with us, and commit to providing useful feedback; and how we coordinate with our government partners so that we are speaking with one voice. But we need the private sector to do its part, too. We need the private sector to come forward to warn us — and warn us quickly — when they see malicious cyber activity. We also need the private sector to work with us when we warn them that they are being targeted. The recent examples of significant cyber incident — SolarWinds, HAFNIUM, the pipeline incident — only emphasize what I have been saying for a long time: The government cannot protect against cyber threats on its own. We need a whole-of-society approach that matches the scope of the danger. There is really no other option for defending a country where nearly all of our critical infrastructure, personal data, intellectual property, and network infrastructure sits in private hands.

Foreign Influence

Our nation is confronting multifaceted foreign threats seeking to both influence our national policies and public opinion, and cause harm to our national dialogue. The FBI and our interagency partners remain concerned about, and focused on, the covert and overt influence measures used by certain adversaries in their attempts to sway U.S. voters' preferences and perspectives, shift U.S. policies, increase discord in the United States, and undermine the American people's confidence in our democratic processes.

Foreign influence operations — which include subversive, undeclared, coercive, and criminal actions by foreign governments to influence U.S. political sentiment or public discourse or interfere in our processes themselves — are not a new problem. But the interconnectedness of the modern world, combined with the anonymity of the Internet, have changed the nature of the threat and how the FBI and its partners must address it. Foreign influence operations have taken many forms and used many tactics over the years. Most widely reported these days are attempts by adversaries — hoping to reach a wide swath of Americans covertly from outside the United States — to use false personas and fabricated stories on social media platforms to discredit U.S. individuals and institutions.

The FBI is the lead federal agency responsible for investigating foreign influence operations. In the fall of 2017, we established the Foreign Influence Task Force (“FITF”) to identify and counteract malign foreign influence operations targeting the United States. The FITF is led by the Counterintelligence Division and is comprised of agents, analysts, and professional staff from the Counterintelligence, Cyber, Counterterrorism, and Criminal Investigative Divisions. It is specifically charged with identifying and combating foreign influence operations targeting democratic institutions and values inside the United States. In all instances, the FITF strives to protect democratic institutions; develop a common operating picture; raise adversaries' costs; and reduce their overall asymmetric advantage.

The FITF brings the FBI's national security and traditional criminal investigative expertise under one umbrella to prevent foreign influence in our elections. This better enables us to frame the threat, to identify connections across programs, to aggressively investigate as

appropriate, and — importantly — to be more agile. Coordinating closely with our partners and leveraging relationships we have developed in the technology sector, we had several instances where we were able to quickly relay threat indicators that those companies used to take swift action, blocking budding abuse of their platforms.

Following the 2018 midterm elections, we reviewed the threat and the effectiveness of our coordination and outreach. As a result of this review, we further expanded the scope of the FITF. Previously, our efforts to combat malign foreign influence focused solely on the threat posed by Russia. Utilizing lessons learned since 2018, the FITF widened its aperture to confront malign foreign operations of China, Iran, and other global adversaries. To address this expanding focus and wider set of adversaries and influence efforts, we have also added resources to maintain permanent “surge” capability on election and foreign influence threats.

These additional resources were also devoted to working with U.S. Government partners on two documents regarding the U.S. Government’s analysis of foreign efforts to influence or interfere with the 2020 Election. The reports are separate but complementary. The first report — referred to as the 1a report and authored by the Office of the Director of National Intelligence — outlines the intentions of foreign adversaries with regard to influencing and interfering in the election but does not evaluate impact. The second report — referred to as the 1b report and authored by the Department of Justice, including the FBI, and Department of Homeland Security, including the CISA — evaluates the impact of foreign government activity on the security or integrity of election infrastructure or infrastructure pertaining to political organizations, candidates, or campaigns.²

The main takeaway from both reports is there is no evidence — not through intelligence collection on the foreign actors themselves, not through physical security and cybersecurity monitoring of voting systems across the country, not through post-election audits, and not through any other means — that a foreign government or other actors compromised election infrastructure to manipulate election results.

While the 2020 election is over, the FBI will not stop working with our partners to impose costs on adversaries who have or are seeking to influence or interfere in our elections.

Conclusion

Finally, the strength of any organization is its people. The threats we face as a nation have never been greater or more diverse and the expectations placed on the FBI have never been higher. Our fellow citizens look to the FBI to protect the United States from all of those threats, and the men and women of the FBI continue to meet and exceed those expectations, every day. I want to thank them for their dedicated service.

Chairman Nadler, Ranking Member Jordan, and Members of the Committee, thank you for the opportunity to testify today. I am happy to answer any questions you might have.

²These reports are required by sections 1(a) and 1(b) of Executive Order 13,848.

Chair NADLER. Thank you for your testimony.

We'll now proceed under the five-minute rule with questions, and I will recognize myself for five minutes.

According to documents we've received from the Bureau, the FBI was aware that several violent extremists already under investigation were preparing to travel to Washington in January. In December, FBI Atlanta issued an alert that certain militia groups were preparing for a significant event in January, perhaps on Inauguration Day.

On January 5th, a report from FBI Norfolk warned about specific calls for violence at the Capitol the next day, some of them graphic. "Congress needs to hear with glass breaking, doors being kicked in, and blood being spilled." The report also noted that individuals were sharing maps of the tunnels underneath the Capitol complex and listed rally points where the attackers would gather before advancing on the building.

We know that the Norfolk report made it to the FBI's Washington Field Office in advance of the attack. Yet, for days after the attack, the head of that field office insisted that it had received no intelligence suggesting anything other than First Amendment activity.

Director Wray, the warnings coming in from around the country were clear. Here in Washington, did the FBI simply miss the evidence, or did it see the evidence and fail to piece it together?

Mr. WRAY. Well, Mr. Chair, as you could imagine, we are just as outraged by what happened on January 6th and just as determined to do our part to make sure that never happens again.

Now, the Norfolk report that you referenced was a specific piece of raw, unverified intelligence that emerged on January 5th, the day before, from a source online, unvetted. Despite the raw nature of it, it was quickly passed, not one, not two, but three different ways to the Capitol Police:

- (1) An email to their representatives on our Joint Terrorism Task Force;
- (2) in a verbal briefing in our command post that included Members of the Capitol Police, MPD, et cetera; and,
- (3) third, in our law enforcement portal, which all law enforcement partners have access to.

So, we tried to make sure that we got that information to the right people.

Obviously, anytime there is an attack, especially one as significant as this one, you can be darn sure that we are going to be looking hard at how we can do better, how we can do more, how we can do things differently, in terms of collecting, analyzing, and disseminating intelligence.

Now, you also mentioned individuals under investigation before January 6. A couple things on that.

First, the FBI did disseminate I think about a dozen intelligence products, including warning of domestic violent extremism related to the election, some talking about it continuing past the election all the way through inauguration, including reports, together with DHS, put out in December, the month before.

As far as individuals actually under investigation, now that we are close to 500 arrests into the matter, you may be surprised to learn that, in fact, almost none of the individuals charged and found to be involved with the attack on the Capitol were, in fact, individuals who were previously under investigation.

Chair NADLER. Okay.

At 12:53 p.m. on January 6th, rioters broke through the outer barricade surrounding the lawn of the Capitol. Shortly after 1:45 p.m., the rioters surged past the Capitol Police protecting the Capitol's west steps. At 1:49 p.m., officers officially declared there was a riot at the Capitol.

Acting Attorney General Rosen testified before the Oversight Committee that he learned that the FBI and the ATF received a request for assistance from the Capitol Police and were beginning to respond.

When, specifically, in that timeline of events did Capitol Police request assistance from the FBI? How quickly was that help deployed?

Mr. WRAY. I don't have the specific time for you, so I don't want to misspeak.

Chair NADLER. Okay.

The FBI's Washington Field Office is one of the largest field offices in the country. The field office was reportedly found by an internal review in 2019 to be both ineffective and inefficient. Specifically, the review criticized the field office's mechanisms for collecting and analyzing threat intelligence as well as its procedures for sharing intelligence with other law enforcement agencies, including the Capitol Police.

Did the Washington Field Office's domestic terrorism shortcomings lead to a delayed response in the lead-up to and on January 6th?

Mr. WRAY. My recollection of that particular audit or inspection is that it was a while back and that we had recently changed the leadership of the Washington Field Office and made a number of reforms. So, to my knowledge, at least, none of the issues that were discussed in that earlier report contributed to the response on January 6th.

Chair NADLER. Thank you.

My time is short, but I want to get in one last question.

In February, the Secretary of Defense convened senior military officials and civilian leadership of the Armed Forces to assess the problem of extremist ideology in the military's ranks.

In late April, the Department of Homeland Security announced it was conducting an internal review to root out White supremacy and other extremist ideology in its ranks.

There can be no question that law enforcement agencies across the country face a similar challenge. Is the FBI conducting its own internal inspection or review to root out White supremacy and other extremist ideology? If not, will you commit to conducting such a review?

Mr. WRAY. Well, Mr. Chair, obviously, we take the prospect of what the intelligence community or law enforcement would refer to as an "insider threat" very seriously. We have a whole slew of pro-

cedures and internal reviews that speak to that. I'd be happy to see if we can provide you more information on that separately.

Chair NADLER. Thank you very much.

My time has expired. I now recognize the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. Mr. Chair, Mr. McClintock will go first for our side.

Chair NADLER. Mr. McClintock?

Mr. MCCLINTOCK. Thank you, Mr. Chair.

Director Wray, last month, 180,000 foreign nationals illegally crossed our border. That's a 674-percent increase over last May. Nearly a million so far this year.

The leaders of Mexico and the Northern Triangle countries all say this is in direct response to the Biden open-border policies. I don't think any question that that's the case. These policies have produced the largest human-trafficking operation since the international slave trade.

Can you tell us how many persons on the terrorist watchlist have been encountered this year crossing through our southern border?

Mr. WRAY. Congressman, I'm not sure that I have that number, but it may be that we can provide the specifics separately.

I do know that our field offices down on the border work very closely with CBP, especially focused on so-called "special interest aliens" as well as potential—

Mr. MCCLINTOCK. I've watched—

Mr. WRAY. I just don't have the numbers.

Mr. MCCLINTOCK. —family groups being flagged through straight to transportation hubs.

How many persons with criminal records or criminal warrants have been encountered this year crossing our southern border?

Mr. WRAY. I don't have the specific figures. I know that our field offices down there, all of which I've visited, work very closely with CBP on this issue, and I agree with you that it's a significant security concern.

Mr. MCCLINTOCK. Well, would you think it's a more dangerous threat to our Nation's security than, say, whether Rudy Giuliani filed the right paperwork for his lobbying firm?

Mr. WRAY. I really can't discuss any specific individual investigation.

Mr. MCCLINTOCK. Can you at least give us the FBI estimate of how many terrorists, criminals, and gang Members are among the hundreds of thousands of got-aways that the Border Patrol has been unable to intercept?

Mr. WRAY. Again, I'd be happy to see if I can provide specific numbers and information to be helpful to your request separately. So, I'm happy to follow up with your staff on that.

Mr. MCCLINTOCK. Well, on that point, House Republican Leader Kevin McCarthy sent you a letter in April requesting a briefing on this subject. Will you commit to keeping Mr. McCarthy, in fact, all Members of this Committee, fully informed of it?

Mr. WRAY. I believe we have may have already provided the briefing that you are referring to for Leader McCarthy.

Mr. MCCLINTOCK. Will you provide that for all Members of this Committee?

Mr. WRAY. Again, I'm happy to see what information we can provide to be helpful.

Mr. MCCLINTOCK. Well, I'd hope you could provide me all the information.

Mr. WRAY. Again, I have to see what information we can provide, but yes.

Mr. MCCLINTOCK. Is it true that many of the foreign nationals who are being trafficked across our border often arrive here deeply indebted to the Mexican crime cartels?

Mr. WRAY. Certainly, we have seen quite a number of such instances, absolutely.

Mr. MCCLINTOCK. Are those debts collected through indentured servitude to the cartels?

Mr. WRAY. In some cases, definitely. We are pursuing—we have a number of human-trafficking task forces, as well as working on certain task forces with DHS, to try to address that issue.

There's no question that the cartel activity on the other side of the border is spilling over in all sorts of ways, and you just put your finger directly on one that is extremely concerning to us all.

Mr. MCCLINTOCK. So, we basically, 170-plus years after the 13th Amendment, have slavery burgeoning in this country as a result of these policies.

Mr. WRAY. Well, certainly, I do consider human trafficking a form of—and I don't like the word, but a modern form of slavery.

Mr. MCCLINTOCK. Indentured servitude.

Mr. WRAY. I mean, it's almost medieval.

Mr. MCCLINTOCK. Indentured servitude certainly is.

Mr. WRAY. Yeah.

Mr. MCCLINTOCK. How is that—you mentioned out of the country, but, in this country, how is that enforced? Do the cartels have gang affiliates who extract these debts?

Mr. WRAY. Well, it varies from case to case. Certainly, the cartels have—and different cartels have affiliations with different sorts of gangs here in the United States. There's not just human trafficking from a labor perspective but also sex trafficking.

Mr. MCCLINTOCK. So, this is a massive-organized crime syndicate burgeoning in this country because of these policies. What are you doing about it?

Mr. WRAY. So, we are attacking—it's a team effort, right? Obviously, DHS has the primary responsibility for the border itself, but we have Safe Streets Task Forces that go after the gang activity. We have OCEDEF Strike Forces that go after the—

Mr. MCCLINTOCK. How many agents and how much money are you directing at this threat?

Mr. WRAY. Again, I can see if I can give you specific numbers, but I don't have those off the top of my head.

I will tell you, which is sometimes surprising to people, that our criminal programs, our traditional criminal programs, which include exactly the thing you are talking about, remain, even to this day, with all the national security threats that get so much discussion, remain our biggest number of agents, our biggest allocation of resources. Violent crime, different sorts of violent crime, within the criminal program is by far and away the biggest chunk.

Mr. MCCLINTOCK. Thank you.

Chair NADLER. The gentleman's time has expired.

Ms. Lofgren?

Ms. LOFGREN. Thank you, Mr. Chair.

Thanks to you, Director Wray, for your service to our country. I want to thank especially the Bureau for the diligence with which you have pursued those who attacked the Capitol and the Capitol Police and essentially attacked our democratic system of government on January 6th. We wish you well in those efforts.

I have a couple of questions about the rule of law. We all believe in the rule of law, and we think that—and I know you do too—that the rule of law applies to the government as well.

That leads me to a question about section 702 of the FISA law. As you know, there has been a review by the court on the use of FISA. As you I am sure know, in its latest review, the Foreign Intelligence Surveillance Court found widespread violations of the FBI's internal rules and the law's restrictions on how and when the government may use the information it collects under section 702.

For example, the court found, and I quote, "compliance incidents" suggesting that, "the FBI failed to properly apply its querying standard when searching 702—acquired information was more pervasive than previously believed." In one case, FBI personnel queried foreign intelligence databases for the names of over 100 business, religious, civic, and community leaders who'd applied to the FBI Citizens Academy.

The court also found dozens of cases where agents had searched warrantless foreign intelligence collections in the course of criminal investigations. In summary, the court expressed concerns about, quote, "widespread violation of safeguards on use of warrantless collections."

In response to all these criticisms and concerns, the FBI, it seems to me, basically said they had been working on changes but that had been suspended because of the COVID pandemic protocols.

Here's my question, Director Wray. Section 702 was enacted in 2008. The FBI and other intelligence agencies have had more than a decade to implement what the law requires. Yet, it's 2021, and the FISA court is still finding—this isn't the first time—still finding widespread violations and failures where the FBI uses basically the hook of foreign surveillance but it's using it to avoid its warrant requirements for domestic law enforcement. Why is this happening?

Mr. WRAY. Well, Congressman, I obviously want to make sure and I'm fiercely committed to making sure that the FBI complies with FISA in all respects.

The FISA court's concerns are certainly concerns that I take especially seriously, as somebody who's a former prosecutor, former defense attorney, former Assistant Attorney General in charge of the Criminal Division, and now FBI Director. Our relationship with and our candor with and our transparency with and the confidence that we earn with the court is of utmost importance to me.

Now, the opinion that you are referring to from the court does approve our procedures, did not, in fact, find abuses or misconduct, and has to deal specifically with the querying, the running of searches, in our databases. So, we have taken—

Ms. LOFGREN. If I may—they also found that the FBI had used data for internal domestic investigations. That’s a violation of the purpose of 702.

Mr. WRAY. Again, I’m not going to speak to the specific instances in the report, because I think that would take longer than we have here, among other things. I would say that we’ve done a number of things to try to address the issues identified by the court.

We have made significant changes to the documentation requirements to ensure accountability, oversight requirements, guidance and training enhancements, systems modifications, which may not sound glamorous, but is incredibly important because it helps prevent noncompliance.

Then last but not least, something I particularly want to highlight, I created a whole new department in the FBI, an office of internal auditing, headed by a senior partner from a top—a Big Four accounting firm who also had, prior in his life, been an FBI agent and is consulting with a premier, outside, world-class consulting firm to stand up an office of internal audit specifically focused on FISA to ensure that we have a world-class compliance program and world-class internal auditing program to make sure that we don’t have these—

Ms. LOFGREN. Director Wray.

Chair NADLER. The gentlelady’s time has expired.

Ms. LOFGREN. If I may, Mr. Chair, can we get the Director to commit to have this individual brief with the Committee on those procedures?

Mr. WRAY. I’d be happy to see if we can get the Committee a briefing on what we’re doing in this space.

Chair NADLER. Thank you.

Ms. LOFGREN. Thank you.

I yield back.

Chair NADLER. The gentlelady leads back.

Mr. Issa?

Mr. ISSA. Thank you, Mr. Chair.

I’m going to follow up on my colleague. Apparently, Californians think alike today.

In the 20 years that I’ve sat on the dais and looked at report after report of the FBI failure to comply with FISA and its long history of spying on Americans using this legislation as a backdoor, we’ve seen a pattern, which is we are promised there are going to be changes, and those changes have not ever occurred.

As the gentlelady who just spoke, Ms. Lofgren, would tell you, you’re coming up for reauthorization. If the reauthorization were today, based on—and correct me if I’m wrong—the 2019 report by the inspector general that found 17 significant errors or omissions and 51 wrong or unsupported factual assertions in Carter Page’s domestic spying, if you will, using the FISA statute alone. In addition, we have numerous people, including judges, who say if they’d known the truth, rather than the false statements, they never would’ve granted those warrants.

So, now, the question is: Should we—first, do you agree with those findings, that at least some of those 68 errors or omissions are accurate, including one of your own that was prosecuted for it?

Mr. WRAY. Well, Congressman, first, let me be clear just in case there's any confusion to anybody watching: Of course, all these applications were filed before I became FBI Director just to be clear.

Mr. ISSA. I know.

To be honest, Director, the reason we're having this conversation, Ms. Lofgren and I both, is that it's your watch. Organizations, no matter how great they are, are much like airplane pilots. They're not judged on their safe landings; they're judged on their crashes. This was clearly a crash, wouldn't you say?

Mr. WRAY. Well, what I would say is that the inspector general's report describes conduct that I consider unacceptable, unrepresentative of who the FBI is, and cannot happen again, which is why I implemented over 40 corrective measures promptly after the inspector general's report came out—accepted every single finding in the inspector general's report, implemented every single recommendation in the inspector general's report, went above and beyond, installed an entirely new leadership team at the FBI, created this new office of internal auditing that I just mentioned to Congresswoman Lofgren. I can go on and on and on.

Mr. ISSA. Let me not let you go on and on, just because of short time, and ask you: What assurances can you give us today that a current audit would not find current failures?

Mr. WRAY. Well, as somebody who's worked deeply with auditing firms for all sort of organizations, the point of an audit is to find problems. So, I can't sit here and tell you that no audit would find a problem. That's why we have an auditing process, is to find the problems and fix them. That's what we're going to do.

Mr. ISSA. Okay.

Some time ago, under your predecessor, he came before this Congress and defended a warrant, an unusual one, one that ordered the company Apple to develop software to allow for a backdoor reportedly to be on one iPhone used in San Bernadino by a murderer or a terrorist. In fact, they were asking for software that allowed it to be external, and your predecessor claimed that you did not have the technical capability to decipher it.

Shortly after that, a college professor showed that for about \$300 you could have done it. Yet, you paid \$1 million to an Israeli firm who did it.

Today, can you assure us that you have the tools that you apparently did not have? Or would we have to assume that you'd have to ask a professor for a \$300 solution or the Israelis for a million-dollar solution?

Mr. WRAY. Well, as you could imagine, the technology continues to improve, both for the bad guys and for the good guys. So, it's not a static situation. Even today—

Mr. ISSA. Well, knowing that there have been two recent failures in cyber-attacks, what assurances can you give this Committee that you have the resources and a plan to be on the leading edge of cyber, rather than the trailing edge of cyber, which appears to be where we are in a number of areas?

Mr. WRAY. We constantly need more resources to get further and further ahead of the bad guys in this particular space.

The technology in terms of encryption, which is sort of the point you're getting at with the Apple example, has continued to advance

in a way that's actually making it harder and harder for law enforcement, not just the FBI but all across this country, to get into encrypted devices and certainly encrypted messaging platforms.

We saw that, for example, down in Congressman Gaetz's district, in Pensacola, with the Naval Air Station attack there. We tried to get into Apple's iPhone, the device that the terrorist there used—and, by the way, he took the time in the middle of the attack to shoot the phone—think about the presence of mind that he has to have in the middle of that to try to prevent us from getting into his phone. Our folks were able, in that instance, to reconstruct the phone. Because of a fluke in that particular instance, we were able to actually get into the device. It took months and months, hours and hours, and lots and lots of taxpayer money to get there.

Only then, after not having gotten the cooperation that we really could've used from Apple at the front end, we found out that particular terrorist had been in communication with al-Qaida in the Arabian Peninsula right on up till the night before the attack, not known at the time that the attack was disrupted.

So, it's an illustration of what a challenge this is for law enforcement. It affects terrorist investigations, it affects an issue that I know is near and dear to every Member of this Committee, child sexual exploitation investigations, and it's something that I hear about. I've have talked to law enforcement—

Mr. ISSA. Yeah.

Mr. WRAY. —in all 50 States, and I hear about it from chiefs and sheriffs in every State about this issue.

So, it is top of mind. We are bringing technical tools, using the money that Congress appropriates to us to deal with it.

Chair NADLER. The gentleman—

Mr. WRAY. We are moving in a direction where we are going darker and darker. So, I appreciate very much your concern.

Chair NADLER. The gentleman's time is well-expired.

Ms. Jackson Lee?

Ms. JACKSON LEE. Thank you very much, Mr. Chair.

Thank you for your service, and the FBI agents across the Nation.

Since 2019, the United States has experienced a steep rise in hate crimes. African Americans have been targeted in 48.5 percent of all hate crimes, while hate incidents targeting Latinx have risen 8.7 percent, anti-Semitic hate incidents have risen by 14 percent, and anti-Asian hate incidents have risen by nearly 150 percent.

Director Wray, my time is short. These questions should give just a brief response.

Is the Bureau prioritizing its investigations into violent hate crimes?

Mr. WRAY. Yes, very much so. I could give you more information; it just depends on how much you would like here.

Ms. JACKSON LEE. You'll have an opportunity.

What percentage of domestic terrorism cases investigated by the FBI would you now say are motivated by White-supremacist-type ideology?

Mr. WRAY. Well, I'm not sure that I could give you a percentage. Certainly, on the domestic terrorism side, we have elevated—I did back in June, summer of 2019—racially motivated violent extre-

mism to our very top threat priority band, consistent with ISIS. The biggest chunk of that, by far and away, the vast majority of that is racially motivated violent extremists advocating for the superiority—

Ms. JACKSON LEE. You would say that still today?

Mr. WRAY. Yes.

Ms. JACKSON LEE. Thank you.

Now, let's direct our attention to the beating of law enforcement in Washington on January 6.

On January 6th, the domestic terrorists who beat law enforcement officers and breached the citadel of democracy of the United States wore insignias of White supremacist groups, waved Confederate flags, hung a noose on the lawn, and they were shouting racial epithets.

As indicated, the NYPD sent a packet of raw intelligence concerning potential violence. Why did the FBI not issue a formal threat assessment, with all that information, including an assessment at headquarters?

Mr. WRAY. Well, I don't know about a formal threat assessment. As I was mentioning in response to an earlier question, we did put out quite a number, I think a dozen or so, intelligence products specifically geared towards domestic violent extremism and election-related domestic violent extremism—

Ms. JACKSON LEE. On that day? On January 6th?

Mr. WRAY. Over the course of '20, leading up to and right on up to and including December, the month—

Ms. JACKSON LEE. Can I get that in writing, as to the details of how that progressed and whether there was a threat assessment on that day? I need to move on, and I thank you very much.

You know that the Norfolk FBI office has indicated that an SIR report, Situational Information Report—these are the words: “Be ready to fight. Congress needs to hear glass breaking, doors being kicked in, and blood from their BLM”—Black Lives Matter—“and Antifa slave soldiers being spilled. Get violent. Stop calling this a march or a rally or a protest. Get ready for war.”

Would you agree that these words clearly could indicate racial bias and an attempt to use race and racism as a potential motive for violence?

Mr. WRAY. Well, I'm not sure I tracked all the words in the quote that you read, but, certainly, the Norfolk Situational Information Report, the information that was online was concerning enough that it was provided, as I said, within—

Ms. JACKSON LEE. It had “Black Lives Matter,” “slave soldiers.” That has some racial overtones.

Mr. WRAY. Absolutely. Of course.

Ms. JACKSON LEE. Let me—as you well know, you've just heard me recount the Norfolk, the NYPD. Was the FBI aware of any online threats to the Vice President, the Speaker of the House, and specific Members of Congress connected with January 6?

Mr. WRAY. Well, I can't think of any, sitting here right now. Certainly, we were aware of and discussed a lot of online chatter that was out there—

Ms. JACKSON LEE. I'm going to move on. Thank you.

Mr. WRAY. —but I'm not aware of any—

Ms. JACKSON LEE. On the day of, did headquarters contact the Vice President, did they contact the Speaker of the House, and did they contact—FBI contact any Member of Congress on the day of January 6?

Mr. WRAY. Did any member of the FBI have any contact with any Member of the House?

Ms. JACKSON LEE. Yes. Headquarters I'm going to speak of, your office.

Mr. Wray. Well, I know that there was interaction between—

Ms. JACKSON LEE. I'm going to ask for that in writing as well.

Mr. WRAY. Okay.

Ms. JACKSON LEE. Yes. I thank you.

Let me go to the connection of race and the President of the United States, former President.

On December 19th, the former President indicated, "Big protest in DC on January 6. Be there. It will be wild."

At 12:15 p.m. on January 6, he said, "You'll never take back our country with weakness."

At 1:10 p.m., President Trump said, "We fight like hell, and if you don't fight like hell, you're not going to have a country anymore."

At 2:11 p.m., rioters breached police lines on the west side of the Capitol.

Director Wray, these words do indicate that the former President, Donald Trump, helped motivate the domestic terrorist attack on January 6.

Have any of these words been reviewed to determine whether or not President Trump—words and deeds—should be referred to the Department of Justice as contributing to the violence of the insurrectionists on January 6?

Chair NADLER. The gentlelady's time has expired. The Witness may answer the question.

Mr. WRAY. I am not sure there's a whole lot I can add on that subject, but if there's something I can provide in follow-up, I'm happy to—

Ms. JACKSON LEE. I asked if you referred these actions or deeds of the President—you're the investigatory agency—to the Department of Justice. Donald Trump's actions, words, deeds on that day.

Mr. WRAY. I'm not aware of any investigation that specifically goes to that, but we have hundreds and hundreds and hundreds of investigations related to January 6 involving lots and lots of different pieces of it, and I want to be careful not to speak with absolutes about a massive investigation.

Ms. JACKSON LEE. Well, maybe I can get that back in writing. I thank you.

Mr. Chair, if I might just put on the record for a letter back, there are only 4.7 percent African Americans in the FBI. Much has come to my attention of the lack of promotion, opportunities for leadership in the FBI. The diversity office that you now have does not report directly to the FBI Director.

Would you please provide me in writing where we are with diversity in the FBI as it relates to minorities and specifically African Americans?

Chair NADLER. The gentlelady's—

Ms. JACKSON LEE. I yield back. Thank you, Mr. Chair.

Chair NADLER. The gentlelady yields back.

Mr. Gohmert?

Mr. GOHMERT. Thank you.

Director Wray, we know from the Arizona case the Supreme Court said that State and local law enforcement were not to enforce immigration laws. Isn't it true that local and State law enforcement officers can enforce State and local law even if the defendant is in the country illegally?

Mr. WRAY. Well, I want to be a little bit careful since the last time I looked at that issue was back in the 2001–2003 range when I was a lawyer at the Justice Department. My recollection is very similar—

Mr. GOHMERT. Look, my time is very short.

Mr. WRAY. —my recollection is similar to yours.

Mr. GOHMERT. It's an easy question.

Mr. WRAY. My recollection is similar to yours, but I'm not—

Mr. GOHMERT. Yes.

Mr. WRAY. —speaking as a lawyer right now.

Mr. GOHMERT. Okay. It is the case. I hope you'll refresh your recollection and your legal training.

So, it seems that, since the Federal government is welcoming, basically, by its tactics, by its handling of the massive surge across our border in such a way to continue to encourage it, that there is massive destruction to landowners' property. It sounds like, understanding the criminal trespass laws of Texas, that perhaps landowners on the border ought to have “no trespassing” signs, including in Spanish, so that local law enforcement can protect the country while they're protecting the local property owners.

There was a question about, also, the FISA court. I'm still, as a former judge, particularly disturbed that no FISA judge felt strongly enough about people not lying in applications for warrants that they took action for contempt of court.

Should DOJ officials that sign applications for warrants before the FISA court actually read them before they certify that they're true, and correct?

Mr. WRAY. Certainly, it's my practice when, as FBI Director, I'm signing applications to—

Mr. GOHMERT. You do read them?

Mr. WRAY. I do review them, yes, absolutely.

Mr. GOHMERT. I would commend you for that. I would ask you to look into—

Mr. WRAY. They're not short, by the way.

Mr. GOHMERT. Yeah. They're usually lengthy.

Mr. WRAY. Yeah.

Mr. GOHMERT. Would I commend your looking into Mr. Rosenstein's inability to testify that he actually read those, regarding the Trump campaign, before he signed them.

The night before January 6, January 5th, that evening I was talking to Capitol Police officers, and I said, let's face it, most of the conservatives that come, they don't have any intention of being violent. They said, well, we've been briefed today that there's a good bit of, it's understood, online activity, that there are people that are going to be coming and hate Trump but they're going to

dress up in red/MAGA/Trump paraphernalia to try to blend in and create trouble.

We had Capitol Police Chief Sund testify that they got no information from U.S. intel or from the DOJ, FBI, of any threat of the nature that came about.

Did the FBI have information about the violent threat that occurred on January 6 on January 5th?

Mr. WRAY. Well, the answer to that is complicated, unfortunately. So, we have already talked about a little bit here this morning—

Mr. GOHMERT. It shouldn't be complicated. You either had information or you didn't. That was my question.

Mr. WRAY. So, there's different kinds of information. We had the online chatter that we just talked about, and the Norfolk—so-called Norfolk SIR, situational information report, has that. What we did not have, to my knowledge—

Mr. GOHMERT. Did you pass any of that information on to Chief Sund?

Mr. WRAY. We passed the Norfolk information on to the Capitol Police in three different ways, as well as to—

Mr. GOHMERT. Okay. Well, you were careful to note that most of the protesters who were left this last summer were basically peaceful, but you haven't said that about the 100,000–200,000 people that showed up on January 6th. Do you know how many people actually came into the Capitol on January 6th that were unauthorized?

Mr. WRAY. I don't have an exact number. I do know that we've—now are approaching around 500 arrests. To be clear, to your point about peaceful, the way, I think, is a fair description of January 6th is there's sort of three groups of people, almost like an inverse pyramid.

First group, biggest number of people who showed up outside, maybe not on the Capitol grounds, were peaceful, maybe rowdy, but peaceful protesters. Then there's a second group that were people who, for whatever reason, engaged in, let's say, the next level of criminal conduct, trespass, et cetera, and that is criminal, that is a violation, and it needs—those laws need to be enforced.

Then there's the third group, which is where you are seeing a lot of the arrests, and a lot of them were significant charges that are coming out of our work right now, which are the people who brought all sorts of weapons, Kevlar tactical vests, bear spray, et cetera.

Mr. GOHMERT. Firearms?

Mr. WRAY. What's that?

Mr. GOHMERT. Anybody bring firearms?

Chair NADLER. The gentleman's—

Mr. WRAY. We have—I can think of at least one instance where there was an individual with a gun inside the Capitol, but for the most part, the weapons were weapons other than firearms.

Chair NADLER. The gentleman—

Mr. WRAY. There's three groups, and it's hard to paint with one broad brush every single individual.

Chair NADLER. The gentleman's time is expired. Mr. Cohen.

Mr. CICILLINE. Mr. Cohen is on mute.

Chair NADLER. Mr. Cohen?

Mr. COHEN. I am unmuted now.

Chair NADLER. Okay.

Mr. COHEN. Thank you, Mr. Chair.

Thank you, Director Wray. You've done an admirable job so far to put soldiers in the January 6th insurrection, kind of like going after Al Capone and getting all the lottery sales tickets, the people that do the bootlegging in the street.

You, to the best of my knowledge, haven't done anything to go after the people who incited the riot, the big boss, which was Donald Trump. Do you have any investigation, or have you done anything to look into Trump's activity on the day of insurrection, subpoena records of the White House phone calls in and out, and of meetings that he and Roger Stone and others may have had with leaders of these groups?

Mr. WRAY. Well, again, Congressman, somewhat along the lines of something I said earlier, because we have not one but now close to 500 pending criminal cases, all of which are in the hands of judges who feel very strongly about how much I discuss pending cases, I want to be careful about that. We have brought, in addition to what you are describing as kind of the lower-level type offenses, we have now started to bring a number of conspiracy charges of various individuals.

Mr. COHEN. Yes, you are right.

Mr. WRAY. Yes, I think there's about 30-plus individuals who have been charged with conspiracy.

Mr. COHEN. Director Wray.

Mr. WRAY. Yes, sir.

Mr. COHEN. I appreciate that and understand that, but I am talking about Mr. Big, number one. Have you gone after the people who incited the riot?

Mr. WRAY. Well, I don't think it would be appropriate for me to be discussing whether or not we are or aren't investigating specific individuals. I just don't think that's appropriate.

Mr. COHEN. Okay. I'll accept that and understand that, but I would urge you to do it. He said, come to Washington on the day of the electoral college, a month earlier, no other day, and he said it will be big and it will be wild. I read that as violence to occur. I was with a Capitol policeman on Sunday who said, yes, they had information who said it was going to be violent. You and the FBI did not make the case. You should have warned, and you had a duty to do that.

Let me ask you this: Have you seen Mr. McGahn's testimony yet?

Mr. WRAY. No, sir.

Mr. COHEN. I urge you to look—I don't know if you can do anything without the direction of the Attorney General, but it appears Mr. McGahn was told to lie by the President about trying—wanting to fire officials. That would have resulted in obstruction of justice. I urge you to look at it. Can you Act on that testimony independent of the Attorney General?

Mr. WRAY. Well, I think we have very specific rules about predication and approval on certain investigations, so I'd have to look at whatever information you wanted to send our way, and we can

take a look at the information and evaluate whether or not there's action we could take.

Mr. COHEN. It's in the deposition, and it's clear that McGahn said that the President told him to lie, and the President also lied. I would urge you to look at that and talk to Director Garland—Attorney General Garland about that.

Did you infiltrate the crowds of the BLM, Black Lives Matter, protest in Washington, when they were in Washington?

Mr. WRAY. Congressman, we don't infiltrate protests as a general rule, certainly. When it comes to criminal activity, we have specific rules covered by the Attorney General guidelines and the so-called DIOG, which is our implementation of the Attorney General guidelines that cover what we can and cannot do, and we would have followed those scrupulously, not just in general, but in the specific period that you are talking about. We don't investigate First Amendment activity. We investigate threats of criminal activity.

Mr. COHEN. Thank you, Director Wray. I know First Amendment activity is protected, but was your activities on January 6th different from what it was with Black Lives Matter? Did you observe? Did you try to get more knowledge about what was going on after you had the Norfolk information about the January 6th insurrection?

Mr. WRAY. Well, the Norfolk information that we've talked about here arrived essentially the night before, or the afternoon before January 6th and was promptly passed on. At that point it was raw, unverified information that we hadn't yet had a chance to vet. Of course, we decided that even though it was raw and unverified, we needed to pass it onto all our partners, both in the command post and throughout the Joint Terrorism Task Force, to make sure they had it.

Mr. COHEN. Director Wray, thank you. I only have a few seconds left. You have compared ransomware to 9/11. Ransomware is awful and it's a problem. 9/11 was awful. The insurrection on our Capitol, unlike anything known since the Civil War, is also awful. Where would you compare the insurrection, and would you admit that it was an insurrection on our Capitol with the assault on our country on January 6th?

Chair NADLER. The gentleman's time is expired. The Witness may answer the question.

Mr. WRAY. Thank you, Mr. Chair. First, let me just say that I don't think any attack, ransomware, or January 6th, can fairly be compared to the horror of September 11th, and the 3,000 or so individuals who lost their lives that day. That attack and my engagement with the victims in my last time in government was a big part of why I came back into this role in the first place. My reference to September 11th and ransomware was not about the attack, but about how the country came together in response.

Now, certainly, when it comes to January 6th, it's a unique type of attack, not just in terms of the number of individuals, but in terms of the effort to disrupt a key part of our constitutional system, and the peaceful transition of government, which is such a hallmark of our country.

So, it's a very significant attack in and of its own right, and certainly we have, as we've already talked about, close to 500 arrests.

We have all of our field offices fully engaged, and the amount of manpower devoted to it is extremely significant for one attack, absolutely.

Chair NADLER. The gentleman—

Mr. COHEN. Thank you, sir.

Chair NADLER. The gentleman yields back. Mr. Chabot.

Mr. CHABOT. Thank you.

Director Wray, since you last testified before this Committee our country has faced increased threats, be it malware and ransomware to our computer networks; gang Members crossing our southern border and committing horrific crimes here within the United States; groups like antifa attempting to burn down Federal courthouses; the January 6th attack, as we mentioned, on the Capitol; and the surge of illicit drugs killing so many Americans. We are facing multiple national security threats, all of which need the full attention of agencies like the one that you oversee, the FBI.

I'll first ask you about cyber-attacks. Ransomware terrorists have brazenly disrupted the operations of countless hospitals, schools, city governments, emergency services, even our congressional offices, and an untold number of businesses because they typically pay the ransom quietly.

Last fall, cyber criminals were able to compromise patient records and personal information from a hospital in a senior living community in my district. More recently, high-profile ransomware attacks on Colonial Pipeline and JBS meat processing company caused major disruptions to our oil and food supplies.

I've seen it estimated that there is a victim of a ransomware attack every 11 seconds, that they're already costing us \$20 billion a year, and that you've compared the challenge, as Mr. Cohen mentioned, to the September 11th, 2001 attack on our Nation.

Mr. Director, the Biden Administration basically—I mentioned the attack on the Colonial Pipeline—basically gave a wink and a nod to paying off the thugs. I know some of that money was gotten back, but don't we need to clarify the policy relative to paying off criminals? Aren't we just inviting more attacks when you pay off these thugs?

Mr. WRAY. Well, Congressman, I appreciate the question, and I share your concern about—and that's partly why I've made some of the comments that I've made publicly—about the effect of ransomware and the threat that it poses and the challenge and what it requires from all of us to deal with it.

It is our policy, it is our guidance from the FBI that companies should not pay the ransom for a number of reasons: First, the one that you mentioned, which is that it encourages more of this kind of activity; but then there's, second, some more practical issues, which sometimes the encryption or the locking up of the system that the actors engage in may not be undone. You could pay the ransom and not get your system back, and that's not unknown to happen. Third, and the most important thing is, whether the company pays or not, what we really need is to make sure that the companies or other organizations who are victimized reach out and coordinate with the FBI and with our partners as quickly and promptly as possible.

It's when they do that, it enables us to take all sorts of creative action that we can't always do, but that certain cases we can, and speed matters, which is why, for example, in the Colonial instance we were able to essentially seize and confiscate the clear majority of the ransom that was extracted.

In other cases, again, not common but it does happen, we are able to actually get the encryption keys and unlock the system, even without the company paying the ransom. So, there are a whole bunch of things that we can do to prevent this activity from occurring if, whether they pay the ransom or not, they communicate and coordinate and work closely with law enforcement right out of the gate. That is the most important part.

Mr. CHABOT. Thank you, Mr. Director. I've got two more questions, and I only have time for one. The Centers for Disease Control announced that there's been an increase in overdose deaths. The prevalence of fentanyl is the main thing. It comes from China. It comes across our southern border. Myself, I and Bob Latta, I have introduced legislation relative to fentanyl analogs, which are very similar. It can be changed. They get around the law with that.

My question to you is relative to the fentanyl and the analogs as well. The chaos at our southern border, doesn't this play right into the drug cartels or the current policies down there on the southern border? Isn't it more of that drug coming in and killing far too many Americans? Don't we really need to control that southern border?

Mr. WRAY. Well, I absolutely agree that the security situation at the southwest border is a great concern, both from a perspective of drug trafficking, human trafficking, violence on both sides of the border, corruption, et cetera. Certainly, we are trying to do our part to contribute to that, because, as you mentioned, the scourge of opioids, opioid abuse, fentanyl, in particular, is something that is sweeping the country. I know that in your home State that's a particularly significant concern.

We, from our end, are trying to attack the problem through a variety of means. We are going after not just the professionals, the prescribers from that end of it; we are going after the dark web where it's trafficked there. We are going after the gangs that distribute it here locally. We are going after the source through our transnational organized crime efforts.

So, there's a whole bunch of things that we are doing with our partners. Make no mistake, this goes way beyond law enforcement into other agencies, and frankly, the community as well.

Chair NADLER. The gentleman's time is expired.

Mr. CHABOT. Thank you. My time is expired.

Chair NADLER. The gentleman yields back.

Mr. Johnson.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair.

Director Wray, I want to thank you for appearing before us today and also for your service to the Nation. As I was preparing for this hearing, I researched hate crimes data for my State of Georgia, and I was troubled by the data that I found or, more precisely, what I didn't find.

We clearly have a deeply flawed system for collecting hate crimes data, which has left us with unreliable and incomplete counts. The

hesitation to report, investigate, and designate incidents as hate crimes demonstrates a deep-rooted failure of our justice system.

One thing is clear, since the start of the pandemic, we've seen a significant rise in anti-Asian and anti-Chinese rhetoric. In March of this year, eight people were tragically murdered in a mass shooting in Atlanta, and six of those individuals murdered were women of Asian descent. At a press conference the next day, a police official famously told those assembled that the shooter had, quote, "had a bad day," end quote.

Director Wray, 2 days after the murders, you said in an interview with NPR, quote, "While the motive remains still under investigation at the moment. It does not appear that the motive was racially motivated," end quote. Many people believe, Director Wray, that law enforcement reluctance to designate a homicide as a hate crime does a disservice to the victims and fails to prevent similar future crimes.

Certainly, comments such as yours during an ongoing investigation do not help the cause. Wasn't it inappropriate for you, sir, to infer to the press that you didn't believe that the murders of the six Asian women was a hate crime when, as you said, the motive was still under investigation?

Mr. WRAY. Well, certainly, as you know, Congressman, because that's my home city as well, my heart aches for the victims of that attack, and I grieve with their families. In the instance in question, I think the comment I made was consistent with the information we had at the time, but I regret if anyone's reaction to that was otherwise.

Mr. JOHNSON of Georgia. Well, I submit to you, sir, that such comments by the Director of the FBI were not only harmful to the ongoing investigation, but also diminished the already waning community confidence in law enforcement.

I want to shift now to another issue. Under current law, only those convicted of domestic terrorism-related felonies, or hate crimes, are prohibited from possessing firearms, but those convicted of misdemeanors that have a nexus to domestic terrorism or misdemeanor hate crimes may possess firearms without restriction.

Would you agree that Congress should consider expanding the prohibition on the possession of firearms to those convicted of violent misdemeanors that are related to domestic terrorism and are violent hate crimes?

Mr. WRAY. Well, I don't think it's—I am in a position, as FBI Director, to comment on specific legislative proposals, but I am happy to provide operational input to you, or have the FBI do so with your staff. Certainly, I share the goal of making sure that those who are prohibited by law from possessing firearms don't get their hands on the firearms.

Certainly, to the extent that there are things that can be done to protect the public, we want to do that. That's why our NICS section up in West Virginia processed—and last year processed, a record, almost 40 million background checks of firearms right through the middle of the pandemic.

So, we are trying to do our part to make sure that the laws on the books related to firearms are enforced and that those who are

not supposed to have firearms don't get them. Individual States have individual laws—

Mr. JOHNSON of Georgia. Okay. Let me stop you there. I've got one more issue I want to talk about. When you were here last year, you mentioned the creation of the domestic terrorism hate crimes fusion cell. Can you provide us with some insight into how the fusion cell operates, and to be clear, is it just one cell or are there multiple cells?

Mr. WRAY. I appreciate the question very much. So, this is something that I stood up about a 1½ years or so ago, bringing together the domestic terrorism expertise that we have together with the hate crimes expertise which we have, which is more in the civil rights program. Together, the goal was to try to be more proactive and to try to do a better job of anticipating and preventing hate crimes.

So, for example, we are very proud of the success that that cell helped create in Colorado, where we were able to prevent an attack, a hate crime against a synagogue—I've forgotten the city in Colorado, but that was a big part of what came out of that fusion cell. The fusion cell is one cell in headquarters, but it works with all out of our field offices and helps coordinate that effort. Again, the whole goal is to try to be ahead of the threat. That's the point of it.

Chair NADLER. The gentleman's time is expired.

Mr. Gaetz.

Mr. GAETZ. Thank you, Mr. Chair. There has been a coverup regarding the origins of coronavirus. We see it in the Fauci emails. We see it in the G7's call today to renew an inquiry into those origins. We see it in the Biden Administration's efforts to squelch investigation into the origins of the coronavirus. I want to figure out what side the FBI is on.

On April 28th, Dr. Li-Meng Yan landed at LAX. One of your agents interviewed her at that time. She then traveled to New York. Your agent from Los Angeles followed her to New York and sought an interview on both the 1st of May and the 2nd of May in 2020.

The FBI took Dr. Li-Meng Yan's phone, on which the doctor showed evidence of WeChat communications between herself and the director of the CDC in Beijing all the way dating back to December of 2019 regarding the Chinese military's involvement in the development of the virus and specific links to the Wuhan Institute of Virology.

Director Wray, when did you become aware of your agency's interface with Dr. Yan? When did you review those WeChat messages?

Mr. WRAY. I am not sure that there's much I can say about any specific investigation. I will say that—a couple things. One, as I think you know and the Committee knows, I have been very vocal and I intend to continue to be very vocal about the counterintelligence threat, which takes a wide variety of forms, from the People's Republic of China and the Chinese Communist Party. I think it's one of the most significant threats facing this country—

Mr. GAETZ. Is Dr. Yan part of that threat?

Mr. WRAY. Well, again, I don't want to speak specifically about any particular investigation. The second thing I would mention is that—

Mr. GAETZ. Well, here's why that's important on the first thing, Director Wray.

Mr. WRAY. Yeah.

Mr. GAETZ. Back in October, or April and May of 2020, we didn't have nearly 600,000 people dead as a result of the coronavirus. On October 14th, 2020, FBI agent Andrew Zinman brought a scientist who was working with the FBI to meet with Dr. Yan in New York on October 14th. They met for nearly six hours.

Can you tell us anything about that meeting and what it tells us about the origins of this virus? It is simply unacceptable to sit here a year later and say you are not going to tell us whether or not there was information about the origins of the virus when it is so central to the safety and health of our fellow Americans.

Mr. WRAY. I certainly understand the point of the question. Again, I have to be careful not to discuss specific investigations. I will say that, in addition to our investigative work, as I think has been recently publicly stated by the DNI, and even the President himself, the intelligence community has been looking at this issue. There are differences of view within the intelligence community about the origins of the coronavirus and so forth—

Mr. GAETZ. I totally understand all that. I am trying to resolve those differences—

Mr. WRAY. —and we are taking a deeper dive on that subject.

Mr. GAETZ. Director Wray, we are unable to hold the Chinese Communist Party accountable if we throw our hands in the air and say, Well, there's differences of opinion. We have to assess whether those differences are similarly rooted in fact. That's why I need the facts from you.

Will you provide to this Committee any scientific analysis that the FBI has done regarding Dr. Yan's claims, regarding the messages she provided to you regarding Beijing's knowledge of the origins of this virus, their military's involvement, and even efforts to try to present to the world a fake genome sequence at the beginning of these developments?

Mr. WRAY. I am happy to see what information we can provide. I will have my staff follow up with yours and see what information we can share on the subject.

Mr. GAETZ. You get that if we don't look at that rooted information, we are unable to ascertain what differences of opinion are correct and incorrect. It's hard to believe that the FBI didn't believe Dr. Yan was credible or significant, because she lands on April 28th. Your agent, Dana Murphy, takes her phone that day. I am holding the receipt from where you got the phone that had the WeChat messages that had very important information regarding Beijing and the Chinese Communist Party.

It's not every day that an FBI agent flies from Los Angeles to New York to follow a Chinese doctor who is a whistleblower and a fact witness. Even if Dr. Yan's technical analysis of the virus is incorrect, the fact that she showed up saying that she wanted to provide information and tell the truth seems significant today.

Now, back when Dr. Yan made these pronouncements regarding the Chinese Communist Party, their military involvement, the leak of this virus from the lab, we had a number of people trying to discredit her. Are you able to ascertain whether or not that effort to discredit Dr. Yan is part of the counterintelligence efforts by the Chinese Communist Party?

Mr. WRAY. Again, I want to be careful both about what information we can provide, in general, about any kind of ongoing investigation, but, about what form that information would take, because in some cases, you may be touching on things that would be classified and that might require a different format.

So, I certainly understand why you are asking the questions. Let me commit to you that I will go back with my folks and see what information can be provided and what form it would have to take if we can provide any.

Mr. GAETZ. That would be very helpful.

Chair NADLER. The gentleman's time is expired. Mr. Deutch.

Mr. GAETZ. Mr. Chair, may I be recognized? Wait, hold on, Mr. Chair. You let everybody else go over. I am asking to be recognized just for a unanimous consent request.

Chair NADLER. The gentleman's time is expired.

Mr. Deutch.

Mr. GAETZ. You are not treating everyone equally, Mr. Chair. You went over by more than—

Chair NADLER. The gentleman's time is expired.

Mr. GAETZ. Mr. Johnson went over by 45 seconds. I just want a unanimous consent request.

Chair NADLER. The gentleman's time is expired. Mr. Deutch. What?

Mr. GAETZ. I just want a unanimous consent request.

Chair NADLER. You want a unanimous consent for what? Oh, oh, oh, okay. I am sorry.

Mr. GAETZ. Just a UC is all.

Chair NADLER. Go ahead. Go ahead. Go ahead.

Mr. GAETZ. Thank you, Mr. Chair. I seek unanimous consent to enter into the record the receipt from the United States Department of Justice wherein Dr. Yan's phone was taken by FBI Agent Dana Murphy.

Chair NADLER. Without objection. Without objection.

[The information follows:]

MR. GAETZ FOR THE RECORD

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

File # _____

On (date) April 28, 2020

item(s) listed below were:
☒ Received From
☐ Returned To
☐ Released To
☐ Seized

(Name) YAN LIMING
(Street Address) Los Angeles International Airport
(City) _____

Description of Item(s): 1x Red Apple iPhone 11

Received By: _____ (Signature)
Received From: _____ (Signature)

Chair NADLER. The gentleman's time is expired. Mr. Deutch.

Mr. DEUTCH. Thank you very much, Mr. Chair.

Director Wray, first, I want to thank you and all the men and women of the FBI for what you do every day to keep us safe. I also want to extend my condolences, my sympathy to the families of Special Agent Alfin and Special Agent Schwarzenberger who were shot and killed while serving a warrant in Sunrise, Florida, just south of my district.

I also, Director Wray, would like to just follow up on some of the things that you've touched on today. First, you said just a little while ago that 9/11 was why you returned to public service, and I just wanted just to follow up on that.

The 9/11 community, as you know, Director Wray, has asked the FBI to conduct a full and complete declassification review of all documents related to the September 11th attacks. It has been nearly 20 years since that horrific day, and these families, the American people deserve this. So, I would just ask whether you will commit to conducting a full and complete declassification review?

Mr. WRAY. We are working very hard on trying to declassify as much information as we can, and to share as much information as we can. I understand why this is frustrating to any number of families, and we will commit to continuing to try to provide as much information as we responsibly can.

Mr. DEUTCH. I would urge you to pursue the full declassification review.

I want to just follow up on your responses, both to Chair Nadler and to Mr. Cohen about the Norfolk memo. You said that, "we tried to make sure the information got to the right people." You said you tried three ways. You emailed it to Capitol Police. You did a verbal briefing in command post, including Capitol Police, and that you used the law enforcement portal that all law enforcement partners have access to.

You then went on to tell Mr. Cohen that the information that arrived essentially, I think you said, the night or afternoon before January 6th, that it was properly passed on, but it was raw, unverified. We decided that even though it was raw and unverified, we needed to pass it on to all of our partners, which you did.

You didn't explain—and I would ask you to explain—what happened next. You passed it on, and what did you do to follow up with this really important information about what may take place the next day in the United States Capitol?

Mr. WRAY. Well, I am not sure that there's specific investigative activity that I could discuss. I think the point in passing this information on, we didn't know what to make of it, and that's why I emphasized that it was raw, unverified information without a specific identity attached to it.

The judgment was made, which is not the way we prefer to have to do things, but given the framing of the information, we decided, out of an abundance of caution, to pass it onto—and sometimes when there's a reference to the email, it's important to understand we are talking about their chosen representatives on the Joint Terrorism Task Force—the whole purpose of which is to keep people in the loop.

Mr. DEUTCH. Right.

Director Wray.

Mr. WRAY. Yes.

Mr. DEUTCH. No, I understand, and I understand that's their purpose. You had a memo that said the report that detailed online posts said that individuals in Washington were ready for war at the Capitol, called for potential—it talked about potential for violence in Washington, DC, in connection with plans to stop the scaled protest on January 6th. That's what was in the memo.

I know you passed it on. What did you do once you passed it on? I am asking the question because we don't know what the answer is. We know that this was out there. We don't know whether you did anything other than pass it on through these channels, and it was damning enough information, certainly it seems in retrospect, that though law, you would have been followed up to make sure that every step was followed once you passed on the information. So, what happened after you passed it on?

Mr. WRAY. Well, I guess, the way we look at it is we passed it on not one, not two, but three different ways in order to make sure that it got through to the people who needed to have that information to exercise their responsibilities to engage in the physical security, which is not what we do.

Mr. DEUTCH. Well, I—

Mr. WRAY. I may be missing the point of your question.

Mr. DEUTCH. I think so. Director Wray, respectfully, I think you are. When you say it's not your responsibility to ensure physical security, you had this memo that foretold, or at least suggested what might happen.

I am going to finish with this, Director Wray: The reason this is so upsetting to me, in particular, is because it just reminds me too much of the two tips that the FBI got before the mass shooting at Marjory Stoneman Douglas High School, one, to someone in Mississippi who saw a troubling YouTube comment, the other after receiving a 13-minute long voicemail with troubling details about this shooter. That was closed as having said there's no lead value.

I understand you thought that there were—this was worth passing on, but it seems like there should have been more than simply saying it was the night before, it came in late, we just passed it on through our channels. That's all we really have the responsibility to do.

Chair NADLER. The gentleman—

Mr. DEUTCH. I yield back. Thank you, Mr. Chair.

Chair NADLER. The gentleman yields back.

Mr. Johnson.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chair.

Director Wray, you articulated in your opening statement that perhaps the top concern in our country right now is the prevalence of violence and violent crime in our communities, and I think we all agree with that.

One of the other serious concerns we have is the decreasing amount of faith that many Americans have in our institutions, and among the most important of our institutions in America, of course, is our system of justice. Over the past few years, millions of Americans have begun to question whether we can still rely upon the

maxim of equal justice under law and whether justice is blind and all the rest.

One of the reasons for this is the very real perception that some individuals within the DOJ and FBI have abused their authority and engaged in selective enforcement of certain statutes. One example that comes to mind is the Foreign Agents Registration Act.

So, I wanted to ask you if you are aware that during Special Counsel Mueller's probe, there were at least five indictments of conservatives under FARA, and if you know how that compares to the prevalence of previous FARA prosecutions since the enactment of that statute more than 80 years ago?

Mr. WRAY. I am probably not the right person to provide a whole lot of information about Special Counsel Mueller's investigation. I'd rather—that's probably better referred to what's left of that office, I suppose.

Certainly, FARA that you are referring to, is an extremely important tool that we in the FBI have been pushing for a while to be using more aggressively, in particular against the Chinese threat, because so much of it is reflected through people engaged in activity that we think could appropriately be pursued under FARA. So, exactly how it compares, I am not sure I have that information.

Mr. JOHNSON of Louisiana. Well, here's the point. We agree with that, and I think we need to be aggressive against the CCP for sure. We are all on the same page there. According to reports, there were as many FARA prosecutions during the previous 40 years as there were during the 18 months of the Mueller probe.

George Papadopoulos, for example, stated that he was given the choice to either, quote, "accept the charge that I lied or face FARA charges. That while FARA has been widely ignored for years, the Special Counsel's Office has dusted the statute off as a prime weapon to get Members of the Trump circle to talk, right," unquote.

The FBI and the Justice Department used FARA throughout their investigation into Lieutenant General Michael Flynn, but nothing ever came from those charges. The Justice Department stated in its motion to dismiss the case that the FBI's closing communication, quote, "made clear that the FBI had found no basis to predicate further investigative efforts into whether Mr. Flynn was being directed and controlled by a foreign power"—Russia, in that case—"in a manner that threatened U.S. national security or violated FARA or its related statutes," unquote.

So, the question is, it seems to a lot of Americans that alleged FARA violations were used as either a pretext to investigate those with ties to President Trump or that FARA charges were used to pressure those conservatives in a bid to find a connection between the Trump campaign and Russia. So, regardless of the details of the Mueller probe, I get that you are not the expert on that. The question is, how could anyone see this otherwise? Doesn't it look like that was selective enforcement?

Mr. WRAY. I certainly understand the purpose of the question, the point of the question. I am not sure that I can really speak to what people would perceive. What I can say is that, again, separate from the special counsel's investigation, which is really, respectfully, probably not my place to comment on, I do think that more aggressive use of the Foreign Agents Registration Act is something

that former Attorney General Barr and I, for example, discussed quite a bit in trying to use it more aggressively than it had been used in the past, partly for the reason we've already talked about.

Mr. JOHNSON of Louisiana. On June 3rd of this year, Politico reported that the Justice Department is now investigating a Democrat lobbying firm for failing to comply with FARA in its representation of Burisma Holdings while Hunter Biden served on its board. Up until about a week ago, when this news was first reported, there was a very real perception that enhanced enforcement is being used only against Republicans and conservatives.

So, the question is, can you confirm the FBI's commitment to fervently pursue these violations, as you said, more aggressively, but to do it regardless of the political party affiliations of the subject of the investigation?

Mr. WRAY. I think political party affiliations should have zero place in our decision to enforce the Foreign Agents Registration Act or any other statute. You can be sure that as long as I have anything to say about it, we are going to enforce it in an even-handed way without respect to anybody's political affiliation.

Mr. JOHNSON of Louisiana. I've got 19 seconds left. I'll just say, that even-hand and this perception that we are talking about is increasingly important in our republic, because if they don't have faith in the system of justice, if they think that Lady Justice is a symbol—has the blindfold up and she's peering beneath it, then we lose an important element that holds the republic together.

I am out of time. I yield back. Thanks for your time.

Chair NADLER. The gentleman yields back.

Ms. Bass.

Ms. BASS. First, thank you very much for your service, Director Wray. I also want to thank you for finally abandoning the category of Black identity extremist likely motivated to target law enforcement. My understanding now is that there is a new category, racially or ethnically motivated violent extremists, and I am actually concerned about this as well.

I am concerned about it because of the FBI's long history of collapsing Black activism in the fight for civil rights and especially against police abuse with terrorism. So, even in this document, several Black individuals and one organization is included along with well-known White supremacist domestic organizations—domestic terrorist organizations.

The FBI says, from 2015–2019, approximately 846 individuals were arrested for domestic terrorism, and I wanted to know, how many of these were African American?

Mr. WRAY. Congresswoman, I appreciate your comments about the changes we made in response to some of the conversations we'd had early in my tenure on the so-called BIE issue. The particular document you are reading from, I am not sure, sitting here right now, that I am certain which document you are referring to, so maybe the best thing to do there would be for us to have my staff follow up with yours—

Ms. BASS. No problem.

Mr. WRAY. —to be sure and be sure that I am answering—yeah.

Ms. BASS. I'm going to ask you several other questions. Do you know of any Black domestic terrorist organization? Could you tell

me their names and what attacks that they have landed? I wanted to know if you've considered, or if the movement for Black Lives or Black Lives Matter is considered a racially motivated violent extremist organization?

Mr. WRAY. So, I appreciate the question, because this is something that I think is important for me to be able to clarify, really, across the spectrum. So, the first point that's really important here is that we don't designate domestic terrorist organizations, period.

Unlike on the foreign terrorist enforcement side where there's a specific statutory scheme for designating terrorist organizations, there is no such scheme for domestic terrorism. Whether it's on the—in the end that you are talking about, or any other end. Having said this—

Ms. BASS. You don't consider any organizations as domestic terrorist?

Mr. WRAY. But, could I—sorry.

I couldn't hear. You flickered out there.

Ms. BASS. You just said you don't consider—you don't designate organizations as domestic terrorist organizations?

Mr. WRAY. That's correct. What we do is investigate individuals with proper predication. In some instances, those individuals will conspire or engage in criminal conduct with each other, and in some cases, we will open a conspiracy investigation, or a so-called enterprise investigation.

Ms. BASS. Do you have indications of Black individuals are activists that are involved in the movement around police abuse and civil rights in those categories? The reason why I am asking that is because there's a number of Black Lives Matter individuals, leaders who have been visited by the FBI in their homes who have been asked about the plans for various protests, et cetera.

Some of those individuals might not be aware that if they misrepresent certain facts to the FBI that they could, in fact, be committing a crime. So, I wanted to ask you specifically about your surveillance of these organizations, and it's my understanding that there were a couple of protests where the FBI did use surveillance and used surveillance aircraft, actually, with organizations that were protesting in Washington, DC, and Baltimore.

Mr. WRAY. So, we are talking about a few different things here. So, the first thing is, we do investigate individuals for criminal activity and violence that occurs in the middle of protests, regardless of what the basis of their protest is. I really can't speak to specific cases because I would need to know the facts, and I would also need to make sure that I wasn't talking about an ongoing investigation.

We do not investigate First Amendment groups. We don't investigate people for speech, for association, for assembly, for membership in domestic First Amendment groups. We have had a few cases that I can think of off the top of my head in the last two years, involving individuals who committed domestic—what we would consider domestic terror attacks, justifying their attacks—lethal attacks, I should add, justifying their attacks based on their interpretation of the so-called Black Hebrew Israelite faith. So, that is probably the best example that I could give you, but that's about

the only thing that comes to mind as we are sitting here talking right now.

Chair NADLER. The gentlelady's time is expired.

Mr. Buck.

Mr. BUCK. Thank you, Mr. Chair.

Thank you, Director Wray, for your service to our country. I want to personally thank you for the great work of the FBI in the case that you mentioned earlier, the synagogue in Colorado.

Director Wray, I think it's important that the world knows that the people on this Committee, certainly, I condemn White nationalism, White supremacy, Nazis, and I don't think anybody accepts the fact. Many of our relatives, my father fought in World War II to rid this planet from the scourge of Nazi Germany, and Nazis generally, and it's upsetting to see any form of Nazi philosophy come back in this country or anywhere else.

There is—in the Chair's opening statement and in some other comments, there seems to be this link between White nationalists, White supremacists, Nazis, and hate crimes, as if only White supremacists commit hate crimes. I have seen a number of videos online recently, and it appears to me that hate crimes are much broader than that. I want to get into some other questions, but if you could just let me know, is it true that the only hate crimes committed in this country are committed by White nationalists?

Mr. WRAY. No, certainly, we've seen hate crimes committed by a variety of individuals.

Mr. BUCK. Okay. One of the concerns I have, and I agree with my friend, Mr. Johnson from Louisiana's comments about the perception among—in the public about the evenhandedness of law enforcement. I was in law enforcement for 25 years. I feel very strongly about the public perception of law enforcement.

I think that one of the challenges that we face, we have two very high-profile:

- (1) A one-day riot, and
- (2) a series of riots last summer.

It appears to the public that those activities have been treated differently by the FBI and by law enforcement. Oftentimes, I think the riots involving antifa and other groups over the summer, in Portland and cities across the United States, were handled by local law enforcement, and not necessarily by the FBI.

Because there appears to be a concerted and coordinated effort, it seems to me that the FBI would have a role in investigating those activities. I just want to give you the opportunity to talk about the fact that you have 500—as you mentioned today—prosecutions of the January 6th events at the United States Capitol, and, yet, we don't see the leadership of antifa or the money behind—there were news reports, for example, that the day after Kenosha, there were rioters there from Portland, from other cities that converged at that location.

It appears that those are coordinated efforts, and it involves, I don't know how you'd put it any other way, but organized crime. Could you please comment and tell the American people how serious the FBI takes those types of domestic terror activities and the

fact that there really is no distinction, or there is a distinction between the FBI's efforts in one area and the other?

Mr. WRAY. So, first, to be clear, the FBI has one standard for both, which is based on the law, based on the evidence available, based on our effort to protect the American people and uphold the Constitution.

I can certainly understand though—I can certainly understand why people might formulate an impression, and part of that has to do with the fact that in a lot of the hundreds—hundreds of investigations we've been conducting related to activity over the course of the summer, in some cases, the most readily provable offense is a State or local charge rather than the availability of a ready-made Federal charge.

To some extent, what you are seeing related to January 6th is that because a lot of the activity was engaged in fairly straightforwardly implicates Federal crimes, namely breaching Federal property, going inside the Capitol, interfering with Congress, et cetera. It's easier to bring Federal charges in that attack than it was over the summer.

So, a lot of those State and local prosecutions that you are referring to from over the summer have had our joint terrorism task forces—

Mr. BUCK. I don't mean to interrupt you, Mr. Wray—

Mr. WRAY. —working closely with our State and local partners—

Mr. BUCK. —but I just want to mention, there were attacks on Federal facilities and cities across the United States.

Mr. WRAY. Yes. So, that's the other piece of it, right. We have lots of investigations, lots of Federal investigations. Like I mentioned I think in my opening remarks, essentially, all our 56 field offices have been investigating activity there, and we are looking for things that are, of course, harder to drill into, but we are looking for things like funding, like logistics, like coordination.

So, a lot of this gets down to the questions of how readily available is the evidence? How clear is the Federal jurisdiction? When we have charges that we can bring Federally, we are all in. We are all in. Some of these are offenses over the summer where people have brought—thrown Molotov cocktails. In some cases, we were able to bring Federal charges related to that.

In some cases, there's an assault on a Federal law officer, and we are able to bring assault on Federal officer charges. So, we are looking for those types of offenses, but we are also looking at the more systematic type of issue, again, funding, logistics, coordination, all that stuff.

A lot of this boils down to the less glamorous spadework that you would recognize from the investigative activities. Sometimes the evidence is readily available; sometimes it's harder to get at. We are absolutely—we have one standard. I don't care whether you are upset at our criminal justice system, or upset at our election system, violence, assault on Federal law enforcement, obstruction of property is not the way to do it. That's our position. One standard.

Chair NADLER. The gentleman's time is expired. Mr. Jeffries.

Mr. JEFFRIES. I thank you, Chair Nadler.

Thank you, Director Wray, for your presence and your service to this country. The dramatic rise in anti-Semitic and anti-Asian vio-

lence throughout this country is unacceptable, unconscionable, and un-American. So, let me begin, Director Wray, by just urging you and the FBI to dedicate all necessary resources to deal with and address this scourge.

Director Wray, violent White supremacy is the most persistent and lethal threat to the American homeland, correct?

Mr. WRAY. Well, the way we look at it, we've categorized it—I think we are saying the same thing, but just to be clear, we have elevated racially motivated violent extremism, the vast majority which is motivated by advocacy on behalf of White superiority, at our highest threat priority level. That's commensurate with ISIS.

It is certainly true that over the last few years, the most lethal attacks here in the homeland have been by individuals of that racially motivated violent extremist category, specifically those advocating for the superiority of the White race.

Mr. JEFFRIES. Right, otherwise known as White supremacists. So, the largest group, just to clarify, of racially motivated violent extremists are White supremacist organizations. Is that right?

Mr. WRAY. Well, I wouldn't say organizations, but individuals, the largest portion of domestic terrorist investigations that we have and arrests or investigations of the racially motivated

Mr. JEFFRIES. Yeah. Well, let me ask you about—oh, thank you. Let me ask you about organizations. The Oath Keepers are a White supremacist organization, true?

Mr. WRAY. I am not sure that I can characterize their ideology. I would say that we have charged a number of individuals related to specific terrorist activity, or violent activity, maybe is a better way of putting it, who self-identify with the Oath Keepers. I think some of those individuals are ones that we would put in this racially motivated violent extremist category.

We also have a number of such investigations of individuals who self-identify with the Proud Boys in a similar vein. Again, in each of those instances, we are not charging them for their membership in Oath Keepers or Proud Boys.

Mr. JEFFRIES. Understood.

Mr. WRAY. We are charging them based on their violent criminal activity.

Mr. JEFFRIES. Understood. The FBI respects the First Amendment; so, do we in Congress, and we can agree on that.

You anticipated my next question. The Oath Keepers clearly are a White supremacist organization. That's my observation, not yours, but happy to have you join me in that characterization. Would you say that the neo-Nazis are a White supremacist organization?

Mr. WRAY. Well, I certainly—when I use the term “neo-Nazis,” I think of them as people who are advocating for White supremacy. That's at least the way I think of that term.

Mr. JEFFRIES. Okay. I am wondering, why is the FBI generally reluctant to use the term “violent White supremacy”?

Mr. WRAY. I think we use the term “racially motivated violent extremism” partly because we are trying to make clear to our people and everyone who's involved that our focus—that doesn't mean everybody else's focus, but our focus is on the violence.

So, part of the reason we changed some of our nomenclature was to make especially sure that what's important to us—it gets back to this idea that we have one standard. It doesn't matter what your motivation is or how abhorrent or despicable your motivation is; what we have to be focused on is the violence.

Mr. JEFFRIES. I understand that. The violence is largely being driven by White supremacy as an ideology. If you don't name the problem and claim the problem, it seems to me that it's hard to tame the problem. That's why I am raising this particular issue.

In terms of domestic terrorism, I think you've testified in the past that this is a growing problem that we've experienced in America, correct?

Mr. WRAY. Domestic terrorism? Absolutely.

Mr. JEFFRIES. That's correct.

Mr. WRAY. Yes.

Mr. JEFFRIES. I would argue that it's actually a problem that has been with us for centuries. We know that the KKK was founded in 1865. That's a terrorist organization. We know that the lynchings that took place in the 1800s and the 1900s were acts of domestic terror. The murder, the brutal killing of Emmett Till in 1955, that was an Act of domestic terror. The bombings of the 16th Street Baptist Church in Birmingham, Alabama, which took place in 1963, that was an Act of domestic terror killing four beautiful, Black, little girls.

This most recent January 6th instance, the attack on the Capitol that resulted in death and mayhem, was an Act of domestic terror. The through line through all those instances is White supremacy. I hope that the FBI will use all its resources to tackle this persistent problem. I yield back.

Ms. SCANLON. [Presiding.] The Chair recognizes Ms. Spartz for five minutes.

Ms. SPARTZ. Thank you, Madam Chair.

Thank you, Director Wray. I just wanted to follow up on some questions that my colleagues from California brought up related to the FISC opinion, and the use of section 702. Interestingly, I also had a letter with my colleague from Congressman Ted Lieu from California, there is some common ground between California and Indiana on some issues.

I appreciate that you assist in direct sending the response last night and a few other letters. One thing that he didn't respond, and we also requested a briefing and I think my Congresswoman from California did too, would we be able to get a briefing by the end of this fiscal year?

Mr. WRAY. A briefing on what we are doing to respond to the questions from the FISC opinion?

Ms. SPARTZ. Yes, that, and on your internal audit initiatives.

Mr. WRAY. Sure, we'd be happy to provide a briefing, but certainly before the end of—

Ms. SPARTZ. Great. Thank you so much. Because as you know, the Foreign Intelligence Surveillance Act of 1978 was legislated by Congress to really address unlawful Executive Branch surveillance of U.S. citizens. A 2008 law created some loopholes which gave exemptions for surveillance of non-U.S. citizens on foreign soil, and as you know, it's been a decade. Application was very rough.

In 2018, when Congress renewed this legislation, they explicitly required documented all of instances when it was violated. As you know, the court also—the FISC also, a report in 2000 FISA court, and the 2018 opinion found that the FBI procedure were in violation of the First Amendment, and due process, and you instill all these new procedures and everything else.

In the 2020 report, pretty much the court had still significant concerns with FBI's limitations, violations were more pervasive than previously believed, that FBI never applied to the FISC for an order, lack of justification for bail (ph) queries is a particular concern and technical violation on address for nearly a year.

The report shows that there are a lot of different concerns, but in their opinion the court pretty much said there is—we are concerned about the apparent widespread violation, but we don't have any evidence due to lack of—due to the pandemic, we couldn't do this really audit. So, due to the absence of evidence to the contrary, the court is willing to certify this process.

Do you know I used to audit them. If PCOB would come to my engagement and they say, Okay, you know what, you audited this engagement. There is no evidence. Nothing is documented. Generally, since we didn't find nothing was documented, no evidence provided, it's okay that you said that this audit statements is material respect seems to be fair and not materially misstated.

I know that you mentioned that one of your internal audit partners is big for auditor, and I am sure he would tell you, I would be fired if PCOB would come to my audit and inspect my audit, because ultimately whatever not documented is not done.

So, do you believe that Federal agencies should be also held at the same standard as we hold private entities? It's not about the law. Do you believe it should hold it to the same standard?

Mr. WRAY. Well, the whole—can you hear me? Sorry. The whole question about how auditing should be done is, of course, as you alluded to, a dense one. The internal auditor that we hired—

Ms. SPARTZ. I am talking like external, because it's internal audit. I have to disagree in your statement when you said to Congressman Issa what is audit done for. Maybe your internal audits are done to find errors. Your external certification done by FISA court is actually to provide an opinion that in the material respects you follow the law, not find an error. As an auditor, you don't want to find errors. That is not the goal of the auditor to find.

So, do you believe, for 2021, since it's been already a decade, you and your internal controls director, would be able to attest that you have all this detective, preventative control, you've done all these different things, and now this point you can actually say that you attest and provide evidence that in material respect you follow the law, and if you don't follow what an error rate you accept and to be able to say I violated First Amendment right for how many citizens is acceptable to violate it? Would you be able to attest that for your 2021 with all the new procedures and provide for FISA court when they do new report this evidence?

Mr. WRAY. So, maybe it would be better for me to be able to explain a little bit more about our audit program, and it could be that some of this could be better addressed through the briefing we are talking about standing up for you.

To be clear, the individual we brought in is here to stand up an Office of Internal Audit and to be able to do—

Ms. SPARTZ. As an executive in the office, you are responsible for the office. As the CEO of the company, you are responsible for the office. You are responsible to follow the law as it's written.

So, would you be able to provide this time an evidence so we don't go another decade, because you have authorization in a few years, provide this evidence and say, "Yes, we can provide evidence we don't violate the rights of U.S. citizens"?

Ms. SCANLON. The gentlelady's time has expired, but you can answer the question.

Mr. WRAY. I think it would be best—this is a complicated topic. There's a lot that I have to say on it. It would be probably better addressed in a briefing that—

Ms. SPARTZ. Okay. I'll look forward to it. Thank you.

Yield back.

Ms. SCANLON. Thank you.

The Chair recognizes the gentleman from Rhode Island.

Mr. CICILLINE. Thank you, Director Wray, for your service to our country. Thank you to the men and women of the FBI.

Gun violence is an epidemic in our country. In my home State of Rhode Island last month, a 31-year-old man was shot at a park while playing with his son, a teenage woman was killed while sitting in a car, a 20-year-old man was shot to death outside his home. The same thing is happening in cities all across America. There's no question that this problem has gotten worse during the COVID-19 pandemic.

In 2020, Rhode Island saw a significant increase in gun sales, and during that same time we saw an 87 percent increase in gun-related deaths, and that trend has continued into 2021.

So, I hope that you can shed some light on what the FBI can do and how Congress can support the agency to fight an epidemic that will claim 40,000 American lives this year.

So, specifically, as I discussed, gun sales skyrocketed during the COVID-19 pandemic. Nearly 23 million firearms were purchased nationwide in 2020, a 64 percent increase. For each of these sales, a background check is required, putting tremendous pressure on our background check system. In fact, in March of last year, the start of the pandemic, Federal background checks hit a one million in a week mark.

So, what does that increase in gun sales mean for the background check system and for public safety, and particularly with respect to your ability to complete a background check within three days, as required by the statute?

Mr. WRAY. So, Congressman, I appreciate the question for a number of reasons, not the least of which is our folks at NICS, the background check systems, worked incredibly hard this past year, in particular, right through the teeth of the pandemic, and had to be very creative in terms of how we kept people socially distanced, rotating shifts, et cetera.

We lived in fear that we would suddenly lose the ability to be able to continue to process the checks because we could potentially wipe out, in terms of having the quarantine, an entire roomful of cubicles of people.

Mr. CICILLINE. Director, I guess my question—

Mr. WRAY. We processed last year 40—

Mr. CICILLINE. Yeah. My question, I guess, is would additional resources be helpful to keep up with this pace so that we don't have the three-day period passing before the background check can be completed?

Mr. WRAY. Absolutely. We have been having to do overtime. We've been having to pull people from other key missions to staff it. I am very proud of the fact that even though we did a record—you used 23 million. My information is that we processed 40 million firearms background checks last year, and then we were able to complete about 96 percent of those within the three days, despite that record—despite the pandemic.

Mr. CICILLINE. Thank you, Director.

So, in 2018, the Center for American Progress, and according to FBI data as well, almost 4,000 prohibited purchasers were able to get a gun because the background check for their sale was not completed within three days.

This is the loophole that allowed the Charleston shooter, who legally should have never been allowed to purchase a firearm, to buy a gun and use it to murder nine worshippers in a church.

So, my question is, how is the FBI supporting the ATF's recovery of firearms found to be transferred to a prohibited purchaser? Are you giving specific instructions nationwide to ATF offices on how to do this? Are those practices being formalized?

Because my experience is they're supposed to be recovered by AFT, but it doesn't seem like that happens. This is individuals who got a gun from a gun store who were legally prohibited from owning it.

I've actually introduced a bill, the Unlawful Gun Buyer Alert, that would require local law enforcement be notified if firearms are delivered to a prohibited purchaser and wonder whether you think that would also be helpful in making jurisdictions aware when someone has illegally purchased a gun.

I am really interested to know what you are doing with your field offices with ATF in this recovery and how we can at least take on this issue of people getting guns from a gun store who don't pass the background check.

Mr. WRAY. I think it might be better for me to offer to have my staff provide you more information about the details of how we work with ATF. They have a very, very tough job, as you alluded to, in recovering the guns that are sold to people who are prohibited by law from having them.

Mr. CICILLINE. Will you commit to a briefing on that, Director, because that would be very helpful?

Mr. WRAY. We'd be happy to set up a briefing on that subject.

Mr. CICILLINE. My last question, Director, is since September 11 the FBI has provided tens of millions of dollars of counterterrorism training and resources to State and local law enforcement agencies.

How is the FBI reallocating this support to State and local partners to address the rise of White supremacists and anti-government groups? Is the Bureau also giving guidance to the Joint Terrorism Task Force to address White supremacist extremism?

Mr. WRAY. So, a couple things there. One is we absolutely are providing domestic terrorism training to State and local partners, and we've actually recently been providing some of our more advanced training to the State and local officers, of whom there are hundreds and hundreds and hundreds who are task force officers on our Joint Terrorism Task Forces.

As to the prioritization of the Joint Terrorism Task Forces on domestic terrorism, and specifically racially motivated violent extremism, when I elevated that to our highest priority level back in summer of 2019, the effect of that was to make sure that not only all 56 field offices are collecting intelligence and disseminating it on that subject, but also to make sure that all 200-plus Joint Terrorism Task Forces and the 4,500 or 5,000 or whatever it is investigators that are on them have domestic terrorism—and specifically that part of domestic terrorism—squarely within their sights.

Chair NADLER. The gentleman's time has expired.

Mr. Jordan.

Mr. JORDAN. Thank you. Thank you, Mr. Chair.

Director, why did you take their copy of the Constitution?

Mr. WRAY. I am sorry. Take a copy of whose Constitution?

Mr. JORDAN. The couple in Alaska that turned out to be the wrong couple. You kicked in their door, you held them at gunpoint, handcuffed them, interrogated them for four hours, took their phones, took their laptop, and you took a copy of their pocket-sized Constitution. Why did you take the Constitution?

Mr. WRAY. Well, Congressman, as you know, I can't discuss a specific investigation. I am not sure whether your characterization is accurate or not, but I can't provide any information about a pending investigation.

Mr. JORDAN. Then why did you report—it was reported in the press. Our staff has actually talked to these individuals. That's what they told us exactly what happened. I am just curious. I see why you had the wrong couple, but if you take their phone and laptop, I am just curious, why did you take their Constitution?

Mr. WRAY. Again, I can't comment on a specific investigation and what the contents was.

Mr. JORDAN. Did you personally talk to the Huepers?

Mr. WRAY. Have I talked to who?

Mr. JORDAN. Have you talked to this couple in Alaska? Again, the couple who had their door kicked in, damage to their door. The FBI has now repaired their door. Held at gunpoint, handcuffed, and interrogated for four hours. Have you talked to them personally?

Mr. WRAY. No, I have not.

Mr. JORDAN. If you find out it's really—I think it's obvious that, based on what we've discovered, that this was the wrong couple. These weren't people who did anything wrong. If you find out they are, will you call?

Mr. WRAY. I'd have to look at the circumstances of what happened. It's an ongoing investigation. That's all I can really say on it at this time.

Mr. JORDAN. If it turns out—you sent their phone back to them, their laptop back to them. If it turns out that they are the wrong

couple, as, again, as I think is obvious, what happens to the data on the phone that you have?

Mr. WRAY. Can you—I am sorry. Can you explain a little bit more what you are asking?

Mr. JORDAN. Did you keep a record—you returned the phone to them, but the data on the phone, do you have, like, copies of their text messages, emails, anything on their phone? Did you keep all that?

Mr. WRAY. Well, when we return people's information, my impression is that we don't keep that information, but it depends on the circumstances of the investigation.

Mr. JORDAN. It's an innocent couple. Your impression is you are not going to keep information?

Mr. WRAY. Well, again, I can't discuss a specific investigation. If you would like to get more information about how it works when we return, more generally, our policies and practices when we return information, I'd be happy to see if we can provide that information to you separately.

Mr. JORDAN. You would think if they're innocent, they're not guilty, and you got information on them, you would get rid of that information. You wouldn't—the FBI wouldn't keep it, right?

Mr. WRAY. I am not trying to—

Mr. JORDAN. Again, in light of what we've found out about FISA, maybe not.

Mr. WRAY. I am not—honestly, I am really not trying to quibble with you here. The only reason I am providing what sounds like a confusing answer is because each case is different. It depends on the circumstances as to how you got the information, what the circumstances were.

We certainly have instances where we purge information that we have. I know that happens. We have other instances where we may be investigating something, and the information is kept.

Again, it depends on the circumstances. There's a whole network—

Mr. JORDAN. Do you know how this couple was identified? I mean, you look on your Twitter site, the posted tweet is a crowdsourcing, "Can you help us find these individuals?" You've got pictures of the individuals. This is relative to January 6.

Was this couple in Alaska found through the crowdsourcing, that technique?

Mr. WRAY. I don't know the answer to that sitting here right now, and, again, I want to be careful not to discuss a specific investigation. I will say that more generally related to January 6, part of the purpose of putting out information for the public is for the public to identify people.

Mr. JORDAN. Right.

Mr. WRAY. If you know people, to identify them.

Mr. JORDAN. Are you doing that as well for the rioters, the people, Antifa in Portland? You are doing that as well for them?

Mr. WRAY. Yes. Absolutely.

Mr. JORDAN. Is it a habit of the FBI to take Constitutions from people that you are interrogating?

Mr. WRAY. I don't know if it's a habit to pursue any particular documents.

Mr. JORDAN. I just found that—

Mr. WRAY. We just seized the evidence that's relevant to what's in the affidavit that we—the search warrant affidavit that we presented to the judge who signed off on it.

Mr. JORDAN. Did you sign off on the raid on Mayor Giuliani's apartment?

Mr. WRAY. Again, I am not going to discuss any specific investigation. I don't normally sign off on specific operational activity as FBI Director.

Mr. JORDAN. That's not what I asked. I asked, did you sign off on this specific FBI activity where the President's personal lawyer's apartment in Manhattan was raided?

Mr. WRAY. Again, I am not going to discuss any specific investigation.

Mr. JORDAN. Are you aware of any leaks by the FBI or the Department of Justice about an investigation of Postmaster General DeJoy?

Mr. WRAY. I am aware of news coverage about an investigation related to that individual, but I am not aware of leaks from people inside the FBI.

Mr. JORDAN. You haven't been briefed on anything?

You haven't been briefed on anything relative to the FBI or the Justice Department relating to that leak of an investigation of the Postmaster?

Chair NADLER. The gentleman's time has expired. The Witness may answer the question.

Mr. WRAY. I can't discuss a specific investigation. I am aware of the news coverage about the investigation you are referring to. I am just going to have to leave it at that here.

Mr. JORDAN. Thank you, Director.

Chair NADLER. The gentleman yields back.

Mr. Swalwell.

Mr. SWALWELL. Director, the plain definition of an insurrection is a violent uprising against government.

On January 6, an officer died. A couple days later, two died. Death by suicide. Hundreds were injured that day. An eye was lost. Fingers were lost. An officer suffered a heart attack. The counting of the electoral college was suspended for approximately six hours. Members of Congress retreated to a secure location.

Was January 6 an insurrection?

Mr. WRAY. Well, Congressman, I certainly understand why you would describe it that way. In my role as FBI Director, because that's a term that has legal meaning, I really have to be careful about using words like that and not getting ahead of both prosecutors and judges who have very strong opinions on what kind of public commentary, as you may remember from your past life, I can engage in.

So, I certainly understand why you are asking the question, given the circumstances both you described and a lot of the other details surrounding the attack.

We are treating it as an Act of domestic terrorism and investigating it through our Joint Terrorism Task Force. We are, as you know, now in the midst of bringing any number of conspiracy charges, which are particularly serious.

This is a very ongoing investigation, and there's a lot more to come, and I would expect to see more charges, and some of them may be more serious charges.

Mr. SWALWELL. Director, we are all grateful when we saw the FBI SWAT team and its forensics team on the floor after the attack. Before the attack, you told the Intel Committee that you were looking for and through social media as a key part of investigations and that you would get tips from social media companies.

Prior to January 6, did the FBI receive any tips from social media companies about threats to the Capitol?

Mr. WRAY. Well, we've had so much information now, I am reluctant to sort of answer any question about the word "any," especially because we are now 500 arrests into an investigation and after the fact.

Certainly, we were aware of online chatter about the potential for violence, but I am not aware that we had any intelligence indicating that hundreds of individuals were going to storm the Capitol itself, to my knowledge.

Mr. SWALWELL. Do you believe the Bureau has the ability to monitor publicly available social media or open-source intelligence collection?

Mr. WRAY. Could you just repeat the question? I want to be sure I answer it.

Mr. SWALWELL. Yeah. Do you have the authority and ability to monitor open-source intelligence collection? So, for example, any website, chat room where you know consistently groups there are posting about threats, whether it's to the Capitol, whether it's to law enforcement. Do you have the ability, and can you monitor open source?

Mr. WRAY. So, the answer to that, unfortunately, like so many things, is complicated. There are Attorney General guidelines as implemented through the so-called DIOG that have been around for many, many years now that govern what we can and cannot do in this space, all which are geared towards protecting the First Amendment.

With proper predication and an authorized purpose, there are a lot of things we can do on social media. What we are not allowed to do is just sit and monitor social media and look at one person's posts, just looking to see if maybe something would happen just in case. That, we are not allowed to do.

Mr. SWALWELL. In the public realm, we are learning that this attack on the Capitol is not a 500-year storm. In fact, as we speak right now, there's a count going on in Arizona related to the 2020 election where claims are being made that the outcome was fraudulent. The former President is telling people that he plans to be reinstated in August. So, you can see that when you have those statements, that count, social media may be a place to look as far as intentions to try and reinstate the President.

Knowing that a storm may be coming, Director, what can we do to make sure that an attack like that does not happen again?

Mr. WRAY. So, what we can do, and we benefit very much from, is getting tips and leads about things that are on social media from—everything from social media companies themselves to Members of the public.

You often hear the expression that DHS coined of, “If you see something, say something”? Most people imagine when they hear that the unattended backpack in a Greyhound bus terminal or something. Obviously, we want people to say something then, too.

What we are trying to communicate is, if you see something that looks like criminal activity and threat of violence, say something, including if you see something on social media, we need you to say something.

That’s what our tip center is partly there for, but you can contact law enforcement, State and local law enforcement.

Mr. SWALWELL. Has your judgment—

Chair NADLER. The Committee’s—the gentleman’s time—

Mr. SWALWELL. Mr. Director, has your judgment changed that there was not widespread fraud in the 2020 election?

Mr. WRAY. As former Attorney General Barr and former Acting Attorney General Rosen have both said, “we looked, but we didn’t see evidence of fraud sufficient to change the outcome of the Presidential election.”

Mr. SWALWELL. Thank you, Director.

Chair NADLER. The gentleman’s time has expired.

At this time, the Committee will stand in recess for about half an hour. We will resume promptly at 1 p.m.

[Recess.]

Chair NADLER. The Committee will come back to order.

Mr. Lieu. Sorry.

Mr. BIGGS. Okay. Let’s try again.

Mr. ROY. I am here, Chair. Can you hear me?

Chair NADLER. Yes.

Mr. ROY. I appreciate that.

Director Wray, I appreciate your service, appreciate you being here today.

Last month, I had a letter that my colleague Thomas Massie and I sent to the Department of Justice requesting further information on prosecutions of individuals who were present at the Capitol on January 6.

Now, earlier you talked about there being over 500 investigations, arrests, or prosecutions that might be underway, and you categorized them in three categories: Those who had peaceably assembled, those who maybe crossed a line they shouldn’t have, and then those who had engaged in violence, obviously, and damaging property and harming police. Those are my words, but roughly that.

My concern is making sure that those who were there exercising their First Amendment rights were not being swept up into investigations or being wrongfully arrested. I have constituents who are concerned.

Will you commit to join personally, along with people necessary to bring in from the FBI, to have a briefing for all Members of Congress, not just this Committee, on this question of the arrests, the nature of the arrests, and how that investigation is going?

Mr. WRAY. Well, Congressman, I appreciate the question.

First, just I want to clarify one thing based on what you just summarized. We are not conducting investigations—to my knowledge certainly—of peaceful protesters and certainly not arresting

people for peaceful protests. So, when I gave those three groups, I wasn't referring to three types of investigations we have, but rather of the three types of people who were present in the area.

Mr. ROY. I understand. I understand that clarification. I am a former Federal prosecutor. I get it. Will you commit to briefing along those lines?

Mr. WRAY. I am happy to see what kind of briefing we could provide to the Committee. Obviously, as I alluded in some of the responses to some of the earlier questions, because we have now something like 500 cases pending in front of different, very particular Federal judges, I really have to be careful about what I can commit to share.

Mr. ROY. I understand. I understand that. A briefing for Members of Congress on what happened on January 6 so we can understand the investigations of citizens, both for those of us who want to ensure people have the law fully enforced who engaged in activities they shouldn't have, as well as citizens who might be wrongfully targeted. I think we ought to have that briefing.

I want to turn my attention to the border.

Does the United States have operational control of our southern border?

Mr. WRAY. I am not sure I am really the right person to address that. I think that's a better question for the Department of Homeland Security.

Mr. ROY. As the Director of the FBI and someone keenly aware of the illegal and dangerous activities going on with cartels along our border, would you say that the United States has operational control over our southern border?

Mr. WRAY. Well, I hesitate to use words like "operational control." What I would say is that the border security issues are of great concern, and they span everything from violent crime associated with the border, drug trafficking associated with the border, human trafficking associated with the border, et cetera. Yeah.

Mr. ROY. Along those lines, Director—I am sorry, our time is limited, I hate interrupting—but are you aware that we've had over 700,000 apprehensions since January 1?

Mr. WRAY. I don't have the exact number, but I know there are quite a few, to put it mildly.

Mr. ROY. Does it sound right that maybe 300,000 got away and releases have occurred, according to sources on the ground?

I am going to ask a series of questions. You can answer them en masse.

Are you aware that, through May, the Fentanyl numbers for 2021 are 7,400 pounds intercepted at the border compared to 4,700 pounds for all 2020?

Do you agree that Fentanyl is one of the most dangerous drugs in the world?

Do you agree that it is infiltrating our communities and our schools, and that synthetic drugs, including Fentanyl, are by far the fastest part of the opioid epidemic, and that there were unprecedented overdose deaths in the United States at 91,000, according to the CDC, from October 2019–October 2020?

Does that all sound consistent with what you know about what's going on with our drug communities and our border situation?

Mr. WRAY. Well, given your past background, you will understand when I refer to what you just asked as a compound question.

Suffice to say that I totally agree that the drug issues related to the border are extremely significant, that Fentanyl—the problem with Fentanyl, Fentanyl coming into this country from elsewhere, including from the southwest border, is something that I think can fairly be described as an epidemic.

Mr. ROY. Two last questions.

There are also significant problems with human trafficking, upwards of 300,000 people being trafficked in our country, 20,000 being brought into our country every year even when we don't have the massive numbers we have right now.

The cartel Jalisco New Generation, operating as Los Zetas, recently have taken over control of Aguililla. They're driving Fentanyl. We now have had an 800 percent increase in Texas of Fentanyl seizures. That is a massive number that's coming into Texas.

So, my question for you—and I'll close because I don't have time—my question is, what is the FBI doing? Have they provided assets directly to CBP to help work to stop the dangerous reach of cartels' Fentanyl and human trafficking into Texas and the rest of our country?

Chair NADLER. The gentleman's time has expired. The Witness may answer the question.

Mr. WRAY. I'll provide a brief answer, and then maybe we can supply some more information after the fact.

So, certainly, we are very actively engaged with CBP across all our border divisions, Texas all the way over to California, and we are working it together with human trafficking task forces, safe streets and gangs task forces, and OCDETF strike forces.

We even have tried to contribute on the other side of the border down with our legat working closely on human trafficking and special interest alien issues.

Of course, we also have something that a lot of people don't realize we do. We have so-called TAGS, or Transnational Anti-Gang Task Forces, even all the way down in the Northern Triangle where we are trying to work with vetted police officers from those countries to try to prevent, at the source, some of the threat from MS-13 and others going up to the United States.

So, happy to provide some more detailed information separately.

Mr. ROY. Thank you, Mr. Director.

Thank you, Mr. Chair.

Chair NADLER. The gentleman yields back.

Mr. Lieu.

Mr. LIEU. Thank you, Chair Nadler.

Thank you, Director Wray, for your lengthy public service and to all the personnel at the FBI for keeping Americans safe.

Earlier at this hearing it was brought up that COVID-19 could be a bioweapon. Before I ask you any questions, I just want to make a public service announcement.

If you are watching this and you believe COVID-19 is a bioweapon, you can protect yourself: Go get vaccinated. If you are fully vaccinated, then COVID-19 largely cannot harm you. Please consult your doctor if you have any questions.

So, Director Wray, I'd like to follow up on the questions by Congress Member Zoe Lofgren, Congress Member Issa, as well as Congresswoman Spartz, on section 702 of FISA and the database.

As Congresswoman Spartz mentioned, we wrote a letter to you about how the FBI got access to private information of Americans—without a warrant—from this database. I appreciate your response back where you implement a number of procedures to mitigate this from happening in the future.

What I'd like to know is, if in the future the FBI either accidentally or intentionally gets this information from the foreign surveillance database without a warrant, do you segment that information so that if it's ever used in a court of law the defendant can challenge it and challenge how it may have influenced your investigation?

Mr. WRAY. I think the answer is yes, but I would prefer to make sure that I have people follow up with you to make sure that we are giving you the technically precise answer to that question.

Mr. LIEU. I'd appreciate it if you could do that. Thank you.

My next question goes to the January 6 insurrection and what it was based on. I appreciate that you earlier had stated that you investigated alleged voter fraud and you could not find any fraud sufficient to overturn the results of the election.

In these 500 or so arrests of the individuals that attacked our Capitol, it's true, isn't it, that a number of them went to the Capitol to stop the electoral college from being certified based on the big lie that the election was stolen.

In other words, they were there not because they were upset about corporate tax rates but because they believed the election was stolen. Is that correct?

Mr. WRAY. Well, certainly some portion of the individuals that we arrested, have arrested so far, were individuals whose intention was to interfere with or obstruct the operation of Congress' constitutional responsibilities here.

Mr. LIEU. Our constitutional responsibility on that day, on January the 6th, was to certify the election results in the electoral college, correct?

Mr. WRAY. Yes.

[Audio malfunction.]

Mr. LIEU. It seems like in the 21st century that these cyber-attacks are only going to increase.

Would you agree, Director Wray, that we are likely going to see an increase in cyber-attacks against both the public and private sector?

Mr. WRAY. Yes. We think the cyber threat is increasing almost exponentially. Ransomware alone, the total volume of amounts paid in ransomware I think has tripled over the last year. We are investigating a hundred different ransomware variants, and each one of those hundred has dozens, if not hundreds, of victims.

That's just ransomware. That's just ransomware. We obviously are investigating scores and scores and scores of nation-state intrusions and other kinds of cybercriminal attacks.

So, the scale of this is something that I don't think this country has ever really ever seen anything quite like it, and it's going to get much worse.

Mr. LIEU. [Audio malfunction] private sector. That's why I have introduced legislation to provide incentives for people to go into the cyber-security field. We are simply going to need more of these cyber workers to protect Americans in the future.

Now, some of these hacker groups appear to either be in Russia or operate with either the complicity of Russia or directly at the behest of Russia.

Would you agree that there is some State action involvement in some of these hacker groups?

Mr. WRAY. Well, of course, it varies from intrusion to intrusion. We know the Russians have a very active, clearly state-sponsored cyber campaign, including things like the SolarWinds intrusion, which we have now publicly attributed to the SVR.

In the past, there have been other indictments where we've brought against other Members of the Russian Intelligence Services.

Separate from that there are, of course, cyber-criminal actors, any number of whom operate—quite a number of whom operate on Russian soil.

The degree of nexus between those cyber criminals and the Russian Government is not something I can discuss in an open hearing.

I will say that the most recent actors, the so-called DarkSide actors involved in the Colonial Pipeline attack, are individuals who, perhaps not coincidentally, specifically target English-speaking victims.

Chair NADLER. The gentleman's time has expired.

Mr. Bishop.

Mr. Biggs.

Mr. BIGGS. Thanks, Mr. Chair. Appreciate it.

Thanks, Director Wray, for being here.

I am going to read a quote from a recent commentator:

We can continue playing compliance whack-a-mole, but at this point it's reasonable to ask whether this sort of large-scale collection on a "general warrant" model is inherently prone to these problems in a way that resists robust and timely oversight.

We've seen this movie before. The court wags its finger at systemic non-compliance but ultimately decides to give the FBI yet another chance.

Of course, this commentator is referring to the opinion from the FISC court that came out in November, which was just recently released, on April 20th or 21st.

In that opinion the judge said, "While the court is concerned about the apparent widespread violation, it lacks sufficient information at this time" to assess the adequacy of the FBI system changes and training.

So, Congressman, the Ranking Member, Jim Jordan, and myself wrote to you on May 4, and we presented three questions to you.

- (1) Please explain why, almost a year after the OIG's report about FISA abuses, the FISC found the FBI to still be abusing its warrantless surveillance authority under section 702.

I think we brought that up because in the one example, you had at least 40 individuals surveilled who had nothing to do with foreign intelligence whatsoever, and that was a finding.

- (2) Please provide a detailed accounting of every instance since December 2019 in which the FBI has queried, accessed, otherwise used information obtained pursuant to section 702 for purposes unrelated to national security.
- (3) Please explain what actions you have taken in the wake of the FISC November 2020 memorandum opinion and order to prevent the FBI from using its section 702 authorities to surveil, investigate, or otherwise examine U.S. citizens.

So, we sent that on May 4. Then, over a month after that, last night we received the response. It wasn't from you. It was from your assistant director, excuse me.

That letter was primarily focused on question (3), which I get, and you've mentioned that several times today. I appreciate the efforts that you are trying to make to clean this up or at least provide some kind of effort to prevent this, the kind of systemic abuses that we've seen in the past.

Director Wray, I think it's imperative that we understand the answers to questions (1) and (2), which I reiterated to you. You don't have time to answer them all here. It would be better if we could have a dialogue, for sure.

What I want to know is, can you provide us a detailed accounting of every instance since December 2019 in which the FBI has queried, accessed, or otherwise used information obtained by 702 for purposes unrelated to national security?

Mr. WRAY. I can look and see if there's more information we can provide you, perhaps in a classified setting.

I will say that the summary that you just gave, it's important, for people not to confuse two different issues. The Inspector General's 2019 report has to do with surveillance, and we've talked about that at great length, including in a prior hearing in front of this Committee.

The 702, the FISC opinion, has to do with querying, which is running searches in a database. There's nothing having to do with surveillance. All that is lawfully collected information. So, it had nothing to do with surveillance or anything like that.

That does not mean that we don't consider the findings in the FISC opinion incredibly important, which is why I am putting in place all these measures.

Mr. BIGGS. The judge found them so troubling that he required now—and I was going to ask you about this—he requires you to provide a report every quarter about minimization, querying, your efforts there.

Have you provided the first quarter's report to the FISC?

Mr. WRAY. I'd have to check. I know that we deal with the FISC fairly regularly and provide all sorts of reports to them.

It's important to note that the court approved our procedures, our minimization procedures, our collection procedures, our querying procedures, did not find misconduct.

Mr. BIGGS. Didn't find misconduct.

Mr. WRAY. Right.

Mr. BIGGS. It was still—it found widespread—I am going to use the word "improprieties." He was very concerned about widespread improprieties, and that's why he wants the report, wanted it going

forward, is to find out what you guys are doing. So, I want to know if Congress is going to get a copy of that report.

Chair NADLER. The gentleman's time has expired. The Witness may answer the question.

Mr. WRAY. I am happy to see what information we can provide you. The court, though, does not speak in terms of improprieties, and I think the court knows how to use that term when that's what it thinks it's found.

Chair NADLER. The gentleman yields back.

Mr. Raskin.

Mr. RASKIN. Thank you, Mr. Chair.

Welcome, Director Wray. Thank you for your service. Thanks also for reminding us that if we see something, we should say something. I see Donald Trump telling his followers that he is about to be reinstated as President of the United States in August. So, I wanted to make sure I said something so the FBI can be on top of that situation given that he's incited violence against the government before.

I wonder if you can help us understand what the FBI did on June 1, 2020, versus what it did on January 6, 2021.

On June 1, 2020, we saw a full-blown government assault on hundreds of Americans who had peacefully assembled in Lafayette Square in the Nation's Capital to speak and petition government for redress of grievances relating to the murder of George Floyd.

Then America watched as Federal law enforcement in riot gear and on horseback cleared peaceful protesters and reporters, firing pepper balls and flash grenades into the crowd.

It's been reported that around 2 p.m. on that day top law enforcement and military officials assembled at the FBI command center, at your command center, for a planning meeting in advance of this assault on the civil rights protesters.

So, I want to ask you, who was the senior-most FBI official present handling the Bureau's actions on that day? Was that you? If not you, who was it? What was the FBI's general role and function in the events of June 1?

Mr. WRAY. Well, there were a lot of people going in and out of the command post over the course of that day, so I am not sure I can speak exactly to who was doing what at 2:00 p.m. that afternoon about a year ago, but—

Mr. RASKIN. Well, who was the highest-ranking person involved?

Mr. WRAY. Well, but it's important to be clear about what we are talking about here.

You asked about the FBI's role. So, the FBI does not, did not on June 1 of 2020 or on January 6, we don't have the skills, the job responsibility, the training, the equipment, or the responsibility to engage in crowd control, riot control, and things of that sort. So, we were not engaged in that kind of activity on June 1 or on January 6.

We do have a command post at the Washington Field Office, and at some point, on the day that you are referring to, at different points of the day, especially in the evening and at nighttime, I was over there.

I was not in Lafayette Square. I was in the Washington Field Office command post for a good part of that night. At different parts

of the day, other senior executives at the FBI were coming and going.

The activity that you are describing is not the FBI's—you asked about the FBI's role. That was not the FBI's role.

Mr. RASKIN. Well, what was the FBI's role?

Mr. WRAY. So, we had a few different things. First, I think our folks do a very good job of running command posts that bring different agencies together so that they can all sit shoulder to shoulder and exchange information, let each other know what they're doing, et cetera. So, that's one thing we did.

Second, we are an intelligence agency. So, to the extent that we have intelligence to collect, to analyze, and to disseminate, we do that.

Third, we have tactical response. So, if there is an incident that occurs where there's a crime being committed, we in certain instances have the ability to send a SWAT team to respond, and we sometimes do that.

Then, last but not least, we investigate criminal activity. We are, after all, the Federal Bureau of Investigation, not the Federal Bureau of Security, not the Federal police, the Federal Bureau of Investigation. So, we do that.

So, our folks would have been in a variety of ways providing support to our partners using the skill sets that we have, which are extensive but not the same as a lot of our Federal partners.

Mr. RASKIN. Okay. So, I wonder if you would just translate those four functions that you played on June 1, 2020, to January 6.

Did you activate the command post on January 6? Were you operating an intelligence agency? Was there tactical response? Were you doing investigation on that day?

Mr. WRAY. So, as a general matter, all four of those same things applied on January 6 as well. We had the command post—just like we did back in June, we had the command post stood up at the Washington Field Office.

We also had, just like we did back in June, a national command post stood up at our SIOC at headquarters. We were collecting, analyzing, and sharing intelligence when we had it. We had SWAT teams at the ready to deploy.

As we all know now, at the appropriate time, or at some point in time over the course of the afternoon, we were asked to send our SWAT team, and we did investigative activity.

Mr. RASKIN. Were you present yourself on January 6?

Mr. WRAY. I was present in one of the command posts, in the national command post at headquarters. I was in one of the command posts, yes.

Chair NADLER. The gentleman's time has expired.

Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chair.

Director Wray, on June 8, ProPublica published an article stating that it, quote, "has obtained a vast trove of IRS data on the tax returns of thousands of the nation's wealthiest people, covering more than 15 years," close quote.

The article went on to disclose detailed return information spanning five years of several ultra-wealthy Democrats who seem to

have much more—much less enthusiasm for taxes in private than they advocate for publicly.

Title 26, section 7213 makes it a Federal felony punishable by a fine and up to five years in prison willfully to disclose return information.

That statement and the balance of the article reflect the commission of tens of thousands of counts of crimes, probably by some IRS employee or some other authorized disclose of the data or some hacker.

ProPublica reporters and editors also apparently have committed criminal violations under section 7213(a)(3) by publishing this data. They write that they intended to commit more of that. In fact, they wrote that they thought about the privacy implications and concluded that they're effectively above the law.

Has the FBI made any arrests in connection with that matter?

Mr. WRAY. I can't comment on any specific—the existence or conduct of any specific investigation. To the extent that I can speak in this kind of setting, I am not aware of any arrests specifically related to the news coverage that you just described.

Mr. BISHOP. Has the FBI executed any search warrants or raided any offices or given any tips to CNN about such a thing in connection with this matter?

Mr. WRAY. I can't—there's no such activity that I can describe at this time.

Mr. BISHOP. The FBI has arrested hundreds of people, as you've described in your testimony, for trespassing, some of them within days of their offense, put them in solitary confinement, in some cases for 90 days detention without bail.

Why is this particular brazen massive crime deprioritized?

Mr. WRAY. You are talking about specifically the leak of taxpayer information?

Mr. BISHOP. Tens of thousands of taxpayers.

Mr. WRAY. Well, I don't think we—I am not suggesting any lack of prioritization. There is responsibility for activity of IRS employees that also involves the IRS Inspector General.

So, there may be a difference in the areas of responsibility as compared to if you are comparing it to January 6, where, when it comes to acts of domestic terrorism, that's squarely something that we are expected to prioritize. I think as the Committee would want; counterterrorism is the FBI's number one priority.

Mr. BISHOP. Director Wray, have there been any arrests in connection with the *New York Times* publication last September of the details of Donald Trump's tax information?

Mr. WRAY. I am not aware of any.

Mr. BISHOP. Did any criminal charges ever get brought against Lois Lerner?

Mr. WRAY. I don't know the answer to that sitting here right now.

Mr. BISHOP. Shifting topics a little, Director Wray, but maybe thematically connected and touched on by Mr. Buck.

The FBI has frequently dismissed charges against violent rioters over past months in Portland. You made reference to that matter some. Reportedly, over half of the charges brought have been dis-

missed. I think the number is about 87, and about half of those are gone.

On May 28 the journalist Andy Ngo released a statement and evidence that he was assaulted and beaten while covering the latest violent riot by Antifa at that time. He wrote about being pursued as he fled through the city streets and having to beg refuge in a hotel and fleeing into the upper floors to evade being captured and killed by rioters calling for his death. Mr. Ngo has been repeatedly targeted and physically attacked because of his reporting on Antifa violence in Portland and Seattle.

You mentioned earlier Asian Americans being specifically targeted. That includes Mr. Ngo. Members of this Committee have written you specifically, before I joined this Committee this session, about prior assaults on Mr. Ngo. We did it again early this week. There's been no response.

In 1961, the Attorney General sent 600 U.S. marshals to Alabama to protect Freedom Riders from mobs of violent people who were attacking them.

Why is the FBI not living up to its traditions in the enforcement of civil rights and protection of journalists like Mr. Ngo?

Mr. WRAY. So, the first thing I would say is, when you are describing the prosecutions in Portland, to be clear, the FBI is not dismissing any cases. We don't—the decisions to prosecute or dismiss prosecutions are made by the prosecutors, not by the FBI. So, any frustration you might have in that regard shouldn't be directed our way.

Second, we have prioritized investigations of what I would call anarchist violent extremism, which includes any number of individuals who self-identify, say, with Antifa.

In fact, we've had a significant number, a significant increase in our number of anarchist violent extremist investigations during my tenure. In fact, we had more anarchist violent extremist arrests last year, in 2020, than the prior three years combined.

So, we are actively pursuing those investigations where we can. It's a threat that we take very seriously.

We saw, for example, the first, in recent memory, the first lethal anarchist violent extremist attack last year. It was directed by an Antifa identifier who attacked a supporter of the other side. He ultimately—that defendant ultimately died in a shootout with the marshals, as you may know. So, it's something we take very seriously.

Chair NADLER. The gentleman's time is expired.

Mr. BISHOP. Mr. Chair, could I make a unanimous consent request?

Chair NADLER. For technical reasons, the Committee will stand in recess for 10 minutes.

[Recess.]

Chair NADLER. The Committee will come to order. Ms. Jayapal.

Ms. JAYAPAL. Thank you, Mr. Chair.

Director Wray, thank you for being with us. In April 2020, White supremacists stormed the Michigan State Capitol carrying guns, swastikas, confederate flags, and a doll representing Governor Whitmer with a noose around its neck. Many of us saw those events as a dress rehearsal for the events of January 6th. Did the

FBI consider these events in its preparation and intelligence gathering leading up to January 6th?

Mr. WRAY. Well, certainly, threats in Michigan were something that were very much on our mind. Among other things, as you may know, we investigated and took down a ring of domestic terrorists who were attempting to kidnap Governor Whitmer, the so-called Wolverines.

Ms. JAYAPAL. Did you consider the events as they relate to the intelligence that you were seeing relative to January 6th?

Mr. WRAY. It's hard for me to say specifically. Certainly, it was something that was on our mind, and we baked in all the information we had and the intelligence products that we were putting out over the course of 2020 right on up until December warning about the potential for domestic violent extremism as it relates to the election, continuing past Election Day itself, continuing through into inauguration.

Ms. JAYAPAL. Thank you, Director Wray. It isn't just White supremacists as rioters or insurrectionists that we are concerned about; we are also concerned about the infiltration of the ranks of law enforcement, something that you earlier in this hearing called the internal threat, I believe you said, and you said that you were taking it very seriously. Is that correct?

Mr. WRAY. Yes. I think the phrase I used was the "insider threat."

Ms. JAYAPAL. Insider threat. Thank you. This isn't a new threat. In fact, 15 years ago, in 2006, the FBI counterterrorism division released an intelligence assessment on White supremacist infiltration of law enforcement. Then in 2015, the FBI counterterrorism division's policy directive and policy guide warned agents assigned to domestic terrorism cases that the White supremacist groups that they investigate often have, quote, "active links to law enforcement officials."

In February of 2020, a confidential intelligence assessment concluded that White supremacists were very likely to seek affiliation with law enforcement to further their ideologies. The report stated that extremists expressed a desire to join the military and law enforcement primarily to obtain tradecraft to prepare for and initiate a collapse of society. Director Wray, are you familiar with these three reports?

Mr. WRAY. I am not sure if I am familiar with those specific reports, but I am familiar with, in general, with the theme that they represent, at least as you've described them.

Ms. JAYAPAL. In September of 2020, you testified before the House Homeland Security Committee that, quote, "racially motivated violent extremists over recent years have been responsible for the most lethal activity in the United States."

Now, the 2020 intelligence assessment specifically highlighted the risk of White supremacists joining law enforcement as a way to engage in violence against the U.S. Government and certain racial and ethnic groups, which sounds eerily familiar to what we saw on January 6th.

To your knowledge, Director Wray, were there law enforcement officers participating in the January 6th attack on the Capitol?

Mr. WRAY. Well, there were a whole variety of types of individuals involved in the January 6th breach of the Capitol—

Ms. JAYAPAL. Were there law enforcement officers?

Mr. WRAY. I was about to finish my answer. There were—among the many that we have investigated and arrested, there have been current, and especially former members of military and law enforcement. Among the things, which I think is where you are going with your question, that we are doing, and have been doing for a while now, is working through our joint terrorism task forces, which often have representatives of both the military and various police departments, law enforcement departments.

So, we work closely with them because we are obviously particularly concerned about anybody engaged in domestic terrorism, but especially somebody who might be in a position of trust and responsibility, like a member of law enforcement or military. We have all kinds of engagement with DOD, for example, to try to help screen out—

Ms. JAYAPAL. Let me keep going because I want to get to a couple of specific questions.

Mr. WRAY. Yes. Yeah.

Ms. JAYAPAL. An independent journalist actually documented at least 45 law enforcement officials in attendance on January 6th that have been publicly reported. Since 2000, law enforcement officials with alleged connections to White supremacist groups, or far-right militant activities, were exposed in 14 States, and hundreds of Federal, State, and local law enforcement officials were exposed participating in racist, nativist, and sexist social media activity.

Has the FBI, under your leadership, and maybe you were getting to some of these specific points, distributed guidance to State and local law enforcement to assist them in weeding out White supremacist officers?

Mr. WRAY. We have engaged with our partners about better identifying domestic violent extremism, including, in particular, giving them information about things like symbology, tattoos, that kind of thing, things to be sort of on the lookout for that may be indicators of individuals who have mobilized to violent extremism. That is something that we have tried to put out intelligence products and, as you mentioned, but then others as well, and we've done a lot of training and engagement with our partners on some of these topics.

Ms. JAYAPAL. My time is expired—

Chair NADLER. The gentlelady's time is expired.

Ms. JAYAPAL. —but I was hoping that you could provide us with specific steps that you've taken to ensure that we are weeding out these White supremacists within local law enforcement, so perhaps we can get a briefing on some of those specific things you are doing, and including collecting statistics on White supremacist affiliation with local law enforcement.

Thank you, Mr. Chairman. I yield back.

Chair NADLER. The gentlelady yields back.

Mr. Tiffany.

Mr. TIFFANY. Director Wray, let me start by highlighting national security concerns. Border Patrol recently arrested two Yemeni men at our border who were on the FBI terror watch list and

no-fly list. It's my understanding one of your field offices interviewed them. What was gleaned from that interview or interviews?

Mr. WRAY. I can't discuss the specific ongoing investigations. Certainly, we are concerned about—and our joint terrorism task forces, which I think is what you are driving at, have been latched up with both CBP at the border and to some extent working across the border with our Legat Office in Mexico City, with a specific focus on special interest aliens. We are looking at Yemenis, for example, who may have tried to come in. I am not sure that's anything I can share about specific interviews in this kind of setting.

Mr. TIFFANY. People from countries of particular concern for terrorist activity, you mentioned a few of them, Yemen, Pakistan, Somalia, Iraq, Syria, Afghanistan, and Iran have been coming. I witnessed it recently during my trip to the Darien Gap in Panama, and I would just say, when you talked about—your quote was the source of the problem, which you cite in the Northern Triangle. I would go a little further south than that, because when I went down to Panama, I saw it down there.

The invasion coming into the United States has exploded as a direct result of President Biden's promise to all comers that he will grant them unobstructed catch-and-release into the United States. Should Americans have national security concerns with the exponential increase in the worldwide migration occurring, as we speak, across our southern border?

Mr. WRAY. Well, certainly, we represent—we consider security threats at the border to be an opportunity for potential terrorist activity. I would not want to leave you with the impression, though, that as we are sitting here, that we are tracking any specific credible terrorist threats coming from recent individuals crossing the border.

Mr. TIFFANY. That doesn't give me a lot of assurance when you have tens of thousands of people basically invading our country. The numbers are staggering. They're coming out every single day. That would not be reassuring to me if I heard that answer as an American.

I want to go on to a second issue I'd like to cover, our two-tiered justice system. This is something I hear regularly back home. Time and again, Americans have witnessed justice being carried out in unequal ways. I'll give you a couple of examples: Secretary Hillary Clinton destroying evidence, no consequences; Hunter Biden allegedly lying on his firearms background investigation, no consequences; FBI attorney, former FBI attorney, you probably know him, Kevin Clinesmith, getting probation for lying to secure renewal applications to the FISA.

On top of that, we have the amorous couple, Page and Strzok, who, I am sure you know, that were actively trying to put their fingers on the scales in an election in 2016. None of these citizens had their homes raided. They all have one thing in common: They are Democrats.

Conversely, your agents have approached conservatives very differently. They've executed dramatic raids on the homes of Roger Stone, Paul Manafort, Rudy Giuliani, and were negligent in the investigation of General Flynn. These citizens all had one thing in common: They were Republicans.

I am leading to a question that happened here in Wisconsin. A man named Bernell Trammell was murdered in broad daylight in Milwaukee last year. His sin was he was a Trump supporter. Now, earlier when you heard some people listing examples of minorities who have been killed here in the United States, which is a terrible thing, they never mentioned Bernell Trammell. African-American man from Milwaukee, well-known for going around his neighborhood, wearing a Trump shirt, showing a Trump sign, no one ever mentions him.

It's my understanding his murderer is still at large, and the local government has remained quiet on this matter, despite actively encouraging anti-Trump rhetoric and protests all last year. A request was made to launch a Federal probe into Mr. Trammell's murder as it seems to have been politically motivated. Director Wray, have you answered that request and investigated that politically motivated hate crime of Bernell Trammell?

Mr. WRAY. I am not sure that I can address that in this setting. Certainly, I am happy to follow up with our Milwaukee office to see what the status of that particular issue is. I don't know the circumstances well enough to be able to speak to it. I can assure you that we have one standard, and I've been crystal clear with our folks about that, and that's the way it's going to be as long as I am FBI Director.

Mr. TIFFANY. I hope you do that.

Chair NADLER. The gentleman's time is expired.

Mr. TIFFANY. Thank you. I yield back.

Chair NADLER. The gentleman yields back. Ms. Demings.

Ms. DEMINGS. Thank you so much, Mr. Chair.

Director Wray, it's good to see you again. I also want to thank you for protecting the American people and upholding the Constitution. As you well know, what happened on January 6th was shameful, it was disgraceful. I do believe that as a nation, we failed law enforcement, we failed the American people, we failed the Members of Congress, even those who scrambled on that day for their lives to exit the House floor, but now talk as if it wasn't that big of a deal. I also believe we failed the Vice President and his staff, and we failed congressional staff.

Director Wray, you said you were just as outraged about what happened, but you said the report from the Norfolk FBI office was online chatter, that it was raw, unverified information, but you passed it on—and you made that quite clear several times today—to the Capitol Police.

Director Wray, as you know, and I certainly do too, the FBI is viewed as a premier—the premier law enforcement agency, and other Federal, State, and local agencies look to you, and I think rightly so. It appears to me the FBI dismissed the information. It did not seem there was a sense of urgency. You simply passed it on, and if you did more than that, then I want to hear you talk about that.

Let's talk about that information and what resulted. Officer Fanone was dragged and severely beaten. Officers sustained concussions. One officer lost the tip of his finger. Officers were beaten with baseball bats, poles, and ice, and two officers committed sui-

cide. I guess that online chatter and unverified raw information was credible after all.

Director Wray, there was a failure on that day, and I would like to hear from you what role the FBI played in that failure?

Mr. WRAY. Well, Congresswoman, happy to take the question. So, I can think the most important thing I would say is that we did not dismiss the information in the Norfolk SIR, the Norfolk situational information report, in fact, quite the contrary. Often, when we get online chatter, or raw information, we take time, which would be our preference, to run it to ground and figure out whether it's real or not, because, as you can imagine, there's all kinds of chatter out there and some of it—

Ms. DEMINGS. Director Wray—

Mr. WRAY. Let me just—

Ms. DEMINGS. —this one was real. It was real.

Mr. WRAY. Yes, in this instance, rather than dismiss it, we distributed it to the Capitol Police, to the MPD, to the other partners on the Washington field office, Joint Terrorism Task Force. We did it in writing, through an email; and as if that wasn't enough, we then made a point of briefing it at the command post briefing that evening.

As if that weren't enough, we put it in the portal so we could make sure that everybody got it, all which were actions that we wouldn't normally take, frankly, with raw, unverified information, but we thought the information was sufficiently concerning, that we erred on the side of caution and tried to pass it to the relevant people, not once, not twice, but three different ways, all in the span of about 24 hours.

So, from our perspective, we did try to pass that information. Now, having said all of that, I don't want to leave you or any other Member of this Committee with the impression that we think that what happened on January 6th is okay. I am not the kind of guy, and I think you and I know each other well enough that I know that I am not. I don't use words like "outrage" lightly.

Ms. DEMINGS. Do you feel like the FBI did everything within your power to properly notify—because you didn't dismiss it, so you passed it on. There had to be some concern. Do you feel that you did everything within your power to adequately and properly notify law enforcement so that they would be adequately and properly prepared to deal with all hell breaking loose at the U.S. Capitol?

Mr. WRAY. So, anytime there is a successful attack, much less an attack of the kind of scale and significance that occurred on January 6th, you can be absolutely sure that we are asking what else we can do, what we can do better, what we can do more of, what we can do differently in terms of collecting information, analyzing it, and disseminating.

I am not aware of information that we didn't share that we should have. I am concerned that we need to get better and better at developing human sources to be able to anticipate acts like this in the future. So, that's one of the things that we are looking at. We are going to be looking at a whole slew of things, because our goal is to bat 1,000, and we do not consider what happened to be—what happened on January 6th to be remotely acceptable, and we

are determined to do our part with all our partners to make sure it never happens again.

Chair NADLER. The gentlelady's time is expired.

Ms. DEMINGS. Thank you, Mr. Chair. I yield back.

Chair NADLER. The gentleman yields back.

Mr. Massie.

Mr. MASSIE. Thank you, Mr. Chair.

Director Wray, as you know, the world's largest social media companies took the unprecedented step of canceling, blocking, or otherwise banning the President's social media accounts after January 6th. To the best of your knowledge, did anybody at the FBI or anybody representing the FBI, or any other branch of the U.S. Government consult with these social media companies before they took these actions?

Mr. WRAY. I am not aware of any such consultations, no.

Mr. MASSIE. To the best of your knowledge, did the FBI or representatives of the FBI, or any other branch of the government, consult with the social media companies before they took the actions of canceling tens of thousands of accounts in that following week?

Mr. WRAY. Well, again, I am not aware of any conversations the way you just described them. Certainly, we do engage with social media companies where we pass them information just like they pass us information, and sometimes information that we pass to social media companies prompts them to then, under their terms of service, take certain action. Whether that happened in this particular instance, I can't say because I don't know.

Mr. MASSIE. So, you are not aware of any—

Mr. WRAY. I am not aware of any action of the sort you've described.

Mr. MASSIE. From at least 2007–2016, the FBI conducted an investigation into evidence that the Saudi Government agents provided essential assistance to the first arriving 9/11 hijackers, and the FBI and DOJ have publicly acknowledged that three Saudi Government agents are primary subjects of that investigation, which is named Operation Encore.

We passed a law in Congress, JASTA, to ensure that the 9/11's family's case against Saudi Arabia could proceed. The 9/11 families issued a subpoena in 2018 for records from the FBI's 9/11 investigative files that are critical to that lawsuit.

According to lawyers for those families of the victims, the FBI has refused to search its complete files for responsive documents, claiming it would be too burdensome to do so, and the FBI has withheld certain key documents and significantly redacted others, despite the fact that the records concern events that occurred 20 years ago.

Will you commit today that the FBI will conduct a review of all its relevant 9/11 files on an expedited basis to identify documents relevant to the families' lawsuit and to produce them to the fullest extent possible without sacrificing justice for the victims in the name of diplomacy?

Mr. WRAY. Well, I will make sure that our folks are doing everything they possibly can be consistent with our responsibilities. Obviously, there are matters that involve classified information. There

are matters that involve grand jury information. I do know that the Justice Department has asserted the State's secrets privilege, and that I understand that that's been upheld by both the magistrate judge and the district judge about some information.

I also know, though, and I think this is important for me to add, that we have produced and worked diligently to produce thousands of documents including ones that have rarely been released. I would not want to leave this exchange without telling you how much I care about this issue. The families of the 9/11 victims matter deeply to me, and I know they're frustrated.

Mr. MASSIE. Thank you.

Let me ask you then, would you commit to formally request that the DNI review documents that the FBI has withheld from the families to determine if they can be released in the public interest as she is authorized to do pursuant to Executive Order 13256?

Mr. WRAY. I am happy to take a look with the DNI and others to see if there's more information that can be declassified.

Mr. MASSIE. Okay. Real quickly, the NICS background check, which the FBI runs, according to the GAO, in 2017 there were 112,000 denials, and only twelve U.S. attorney offices' prosecutions. Now, I don't want you to impugn the DOJ, or the ATF are only prosecuting twelve out of 112,000 of these denials. What's obvious here is that there are some false denials; in fact, probably a large majority of these denials are false denials.

According to John Lott who worked at the DOJ, because of similarities in surnames, and first names among racial and ethnic groups, Black Americans are three times more likely to get a false denial and Hispanics are two times more likely to get a false denial than Caucasians. Are you aware of this?

Mr. WRAY. I am not aware of Mr. Lott's findings.

Mr. MASSIE. Would it concern you if there was racial disparity and that law-abiding Black Americans and Hispanic Americans were being deprived of their right to self-defense?

Mr. WRAY. Well, I would be concerned about false denials, and certainly, I would be concerned about racial disparity. You mentioned the—

Mr. MASSIE. Will you commit to investigating whether there is racial disparity in the NICS background check results?

Chair NADLER. The gentleman's time is expired. The Witness may answer the question.

Mr. WRAY. I am happy to look further into the issue. I might have my staff follow up with yours to see—make sure that we have the same information that you are referring to. Certainly, you've raised issues that I'd want to look into further.

Mr. MASSIE. Thank you, Director Wray. I yield back.

Chair NADLER. The gentleman yields back.

Mr. Correa.

Mr. CORREA. Thank you, Mr. Chair.

Director Wray, I also want to thank you and your colleagues for your work in protecting Americans on a daily basis. I sit on Homeland Security, and I have a special appreciation for your work.

If I can then turn our attention a little bit to cybersecurity. You mentioned that part of your job was to protect us from foreign nations like China and Russia, a very difficult job, an important job,

and a job that our national security depends on you doing it right the first time around.

Mr. Wray, if I can talk a little bit about the SolarWinds attack, that attack began as early as March 2020 and allowed Russian intelligence to access critical data and the breach went on for a number of months. This, Mr. Wray, was a major breach. It accessed many Federal agencies as well as the private sector, and it went undetected for a number of months. Mr. Wray, why did it take so long for our Federal investigators to detect this breach?

Mr. WRAY. Well, the SolarWinds breach, or intrusion, that you are referring to, I think it's fair to say, is one of the most sophisticated cyber campaigns ever, and it is a sobering reminder of the lengths our adversaries are willing to go to. I say that because the SVR, and we've now publicly attributed it to the Russian SVR, was basically clandestinely inserting a few lines of malicious code in widely used software, a widely used software update that with tens—that has tens of thousands of lines of legitimate code all to—even though ultimately only targeted about 100 or so for future exploitation.

I think that SolarWinds intrusion highlights the importance of the private sector engagement piece. The FBI, on our end, can pursue appropriate investigations, but what we can't do is just sit on networks and wait and look just in case. So, we are aggressively investigating. Yeah.

Mr. CORREA. Sir, if I can ask you a follow-up question. I refuse to accept the fact that the Russians are better than us at cyber. So, my question is, have you seen any evidence, of internal obstruction, or any internal assistance that would help to hide or impede the investigation into this cyber breach?

Mr. WRAY. Any obstruction? I am sorry. I am not sure I am following the question. You mean by the company—

Mr. CORREA. Have you seen any evidence within the Federal government—

Mr. WRAY. Oh, I see.

Mr. CORREA. —of people assisting or obstructing, hiding this kind of attack on our Nation?

Mr. WRAY. I am not aware that I've seen anybody hiding the attack. Like I said, this was a very sophisticated attack, and I think we've aggressively made progress on it and sanctions have been imposed now. I think something like 38 different countries have joined us in different forms of messaging in support of our attribution of this to the Russian SVR.

Mr. CORREA. I would say, Director Wray, that we are in a very tough situation, given that such a major breach occurred in our Federal government. Recently, the Biden Administration signed an Executive Order—President Biden signed an Executive Order to improve the Nation's cybersecurity and to increase Federal capabilities to respond and get Federal agencies to better coordinate the records in this area. Can you speak as to how the FBI is working to implement this Executive Order?

Mr. WRAY. So, I think what the executive order really highlights is the whole-of-government approach, and frankly, the whole-of-society approach that we need to take to the cyber threat. The FBI, I have heard some people refer to cybersecurity and the cyber

threat as the ultimate team sport, and in this case, the team includes not just the Federal government and various Federal agencies each playing its own role, but very importantly, the private sector, where something like 85–90 percent, as you may know from your other Committee assignment, of our critical infrastructure is in the hands of the private sector.

Then, when you add on top of that Americans' personal identifying information, PII, it's probably even higher than that that's in the private sector. Certainly, our innovation, which is targeted by adversaries like China, even higher than that. So, in our country, configured the way we are, private sector engagement is the key.

Mr. CORREA. Sir, if I may very quickly say that you are right, 80–90 percent is private sector, but this breach was of the Federal government, and I believe even your FBI files may have been compromised.

So, I am hoping in my last few seconds here to say that I look forward to continuing to work with you, both in this Committee and Homeland Security, to make sure that this does not occur again. Again, I refuse to accept the fact that either Russia or China has better cyber capabilities than the United States.

With that, Mr. Chair, I yield.

Chair NADLER. The gentleman yields back. Mr. Steube.

Mr. WRAY. Mr. Chair, may I very quickly respond to that last part?

Chair NADLER. Yes, the gentleman may respond.

Mr. WRAY. First, I totally agree that the Russians and the Chinese are not better than we are, and you and I are aligned on that; second, FBI systems were not compromised in the way that some of the other Federal agencies were; and third, when I refer to the private sector in the context of SolarWinds, it's important to know that the software update that was the vehicle through which the Federal government was compromised was a private sector organization, and that's what I meant by referring to the private sector in that context. Thank you, Mr. Chair.

Mr. CORREA. Thank you.

Chair NADLER. The gentleman's time is—the gentleman yields back.

Mr. Steube.

Mr. STEUBE. Thank you, Mr. Chair.

Director Wray, in your opening statement you described the January 6th protest as, quote, “an angry mob attempting to,” quote, “undermine our institutions of government.” You then went on to paint BLM and antifa violence as, quote, “peaceful, lawful protests” that, quote, “others” quote, “exploited to pursue violence.” Why do you feel that you need to qualify antifa and BLM violence as exploiting otherwise peaceful protest, but you didn't do the same for January 6th?

Mr. WRAY. Well, when I was referring to the civil unrest and the violence that occurred among the civil unrest, I was speaking obviously of a period that covered an entire summer and protests across multiple cities; whereas, of course, in the January 6th instance, we are talking about a single event of massive significance, however, in the course of one afternoon.

As I alluded to in response to earlier questions, there were—I think I’ve already said a couple times this morning, that there were, on January 6th, not people who were under investigation but there were peaceful protesters who were rowdy, and then there were the other two groups, and it’s the other two groups that we are investigating and bringing criminal charges against.

Mr. STEUBE. In one of those on January 6th that was in the Capitol, Ashli Babbitt, an unarmed protester, and Air Force veteran, was shot and killed in the Capitol by a police officer. Director Wray, yes or no, was the FBI involved in the investigation into Ashli Babbitt’s killing?

Mr. WRAY. I am not sure I can answer that. I know that the decision to close the investigation was made by DOJ.

Mr. STEUBE. Well—

Mr. WRAY. The officer involved was not—

Mr. STEUBE. —and you were involved in it, then you can answer whether the FBI was involved in it or not.

Mr. WRAY. I am not sure that we were involved in that one, but I just sitting here right now, I can’t remember for sure, so I don’t want to misspeak.

Mr. STEUBE. Okay. Well, on June 2, 2020, just days after the George Floyd incidents—incident, you gave a press conference in which you detailed the ways the FBI would assist with the Floyd investigation. Subsequently, the DOJ brought civil rights charges under 18 U.S.C. 242 against the officers involved.

May 7, 2021, press release DOJ publicly commended the FBI for its investigative efforts on the Floyd case. Yet, in Ashli Babbitt’s case, where civil rights charges under 18 U.S.C. 242 were also being considered by DOJ, the FBI didn’t assist at all, and you are not sure that you were even involved in this investigation. So, why did the FBI assist with the investigation of George Floyd’s death, but not into Ashli Babbitt’s death that occurred in the Capitol complex?

Mr. WRAY. Well, our decision to assist in the George Floyd case was based on obviously discussions with the civil rights division under the prior Administration and the Justice Department there. The Ashli Babbitt case, I am not trying to create more confusion than is warranted. I am just—sitting here right now, I can’t tell you for sure what role, if any, we played in that decision. That’s all I can really say on that one.

Mr. STEUBE. Well, if you are not sure, then it obviously wasn’t a very active role if you are not sure what involvement the FBI had on that.

Mr. WRAY. I wouldn’t—I am not sure I would say that, sir. We actually have 37,000 employees conducting thousands and thousands of investigations, and though I do my best to try to stay on top of as many of them as I can, sitting here right now, in the span of everything we are talking about I can’t say for sure whether or not we were involved.

Mr. STEUBE. January 6th and how you were in the command center. So, you would probably know if the FBI was involved in an investigation that occurred in an officer-involved shooting of an unarmed person on the Capitol complex if you were involved.

Mr. WRAY. As I said, we’ve had hundreds of investigations—

Mr. STEUBE. On the FBI's most wanted website, there's an entire section entitled "Capitol Violence" targeting individuals who came to protest in DC on January 6th. Comparatively, little or no attention is paid to violent BLM and antifa extremism. BLM and antifa attacked the White House with President Trump inside of it last May, and laid siege to the Mark O. Hatfield Federal Courthouse in Portland last summer, and the FBI doesn't seem interested at all. Can you explain what would appear to be a politically motivated discrepancy on the FBI's most wanted website?

Mr. WRAY. We used social media and putting out information and videos to the public, much as we have with January 6th, in connection with the violence among the civil unrest over the summer. We got thousands and thousands of tips from the public in relation to the violence over the summer and followed up on them. In both cases, we used almost all 56 field offices. In both instances, we opened hundreds of investigations. In both instances, we conducted hundreds of arrests. We consider them both extremely serious.

As I've said several times over the course of this hearing today, we have one standard. I don't care whether you are upset at our criminal justice system or whether you are upset at our elections; there's a right way and a wrong way in this country to do it under the First Amendment. Committing violence, assaulting Federal law enforcement, and destroying property is not the way to do it, and that's my standard for the FBI.

Chair NADLER. The gentleman's time is expired.

Mr. STEUBE. This seems to be a very—

Chair NADLER. The gentleman's time is expired.

Ms. Scanlon.

Ms. SCANLON. Thank you, Chair.

Thank you, Director Wray, for being here today.

Chair NADLER. Your mike.

Ms. SCANLON. I want to focus my questions on foreign influence in our elections over the last several cycles and how that's contributed to the rise of extremist violence which you highlighted in your opening remarks.

I am particularly interested in how Russia's escalating disinformation campaigns attacking the integrity of our American elections and our government contributed to the January 6th attack on this building, those who serve here, the brave officers who protect it, and the very foundations of our government.

I am interested in the role that Russian disinformation and the use of American proxies in spreading that disinformation is playing in continuing efforts to contest Mr. Trump's loss of the 2020 election, and efforts by State legislators to enact laws inspired by conspiracy theories and lies about election fraud.

Now, Russian disinformation is a particular concern for the Commonwealth of Pennsylvania, which I represent, because our election system, and even our electoral college votes have been attacked repeatedly by Russian agents and their domestic proxies, spreading propaganda and outright lies. The fact and the extent of those attacks has been detailed by multiple judicial, law enforcement, intelligence, and bipartisan congressional investigations, including the special counsel's report in 2019, the bipartisan Senate intelligence

report last August, the indictment of more than a dozen Russian Government agents, and the National Intelligence Council's report on foreign threats to the 2020 elections in March of this year.

Since this propaganda appears to have motivated people to participate in the "Stop the Steal" rally and the attack on the Capitol, and continues to motivate efforts in our State legislature to make it harder to vote, I'd like to direct your testimony to the long-standing and apparently continuing Russian efforts to undermine American confidence in our elections.

To start, I would like to get one thing off the table, the difference between election interference and election influence. As I understand it, referring to your prior testimony and the National Intelligence Council's report, election interference is defined as efforts to manipulate the mechanical aspects of voting, such as voter registration and election results. Is that right?

Mr. WRAY. That sounds right. I don't have the report in front of me, but I agree with you that it is important to make the distinction between interference and influence.

Ms. SCANLON. Thank you. Well, I can give you a copy of the report if you'd like. I am not going to get that far into it. Specifically, the March report said there was, quote, "no evidence," end quote, not through intelligence collection on the foreign actors themselves nor through physical security and cybersecurity monitoring of voting systems across the country, not through post-election audits, and not through any other means that a foreign government, or other actors had compromised election infrastructure to manipulate election results. Do you stand by that conclusion?

Mr. WRAY. We contributed obviously to the national intelligence estimate and stand by that estimate.

Ms. SCANLON. Thank you. So, my concern is not fictitious election interference, which we know didn't happen, but actual election influence, which is propaganda designed to impact public opinion, and notably the longstanding Russian efforts to undermine public confidence in election processes and results by claiming that voting systems have been compromised.

You said in your testimony before Homeland Security in 2020 that what concerns you the most is the steady drumbeat of misinformation. Americans can and should have confidence in our election system, and certainly our democracy, but you are worried that people will have a feeling of futility because of all the noise and confusion that's generated.

Should we still be concerned about a drumbeat of Russian misinformation propaganda that our elections are vulnerable to widespread fraud or manipulation?

Mr. WRAY. I think that the drumbeat of misinformation from our adversaries, not just the Russians but now also the Iranians, for example, is something that we absolutely should be concerned about. I think the country has made significant strides not just in protecting our election infrastructure from interference, back to your distinction there a minute ago, but, also, in highlighting the prevalence of misinformation.

So, I do think, as a general matter, the country is getting wiser to misinformation, and social media companies have started to play a more responsible role than they used to in helping to counter

that. Just as we are upping our game, our adversaries are upping their game too.

Ms. SCANLON. Thank you. One thing that's become more clear over the course of your testimony in the March report is that there was a shift in Russian tactics in 2020, and they began to deploy their propaganda using domestic social media, and I believe the quote is, U.S. officials and prominent U.S. individuals, some of whom were close to former President Trump.

Certainly, Mr. Trump and many of his supporters have promoted conspiracy theories that claim without evidence that we cannot trust our election results. Can you comment on whether since the 2020 election, Russia continues to promote propaganda and lies about the integrity of our elections and whether they're continuing to use U.S. proxies?

Chair NADLER. The gentlelady's time is expired. The Witness may answer the question.

Mr. WRAY. I would just say that Russian efforts at disinformation in this country continue. It's a 365-day-a-year phenomenon. Beyond that, that's really probably all I can say right now.

Ms. SCANLON. Thank you. I would seek unanimous consent to place in the record the March 2021 report from the National Intelligence Council on foreign threats to the 2020 U.S. foreign elections. Thank you. I yield back.

Chair NADLER. Without objection.
[The information follows:]

MS. SCANLON FOR THE RECORD

DECLASSIFIED by DNI Haines on 15 March 2021

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NATIONAL INTELLIGENCE COUNCIL

INTELLIGENCE COMMUNITY ASSESSMENT

10 March 2021

ICA 2020-00078D

Foreign Threats to the 2020 US Federal Elections

This document is a declassified version of a classified report. The analytic judgments outlined here are identical to those in the classified version, but this declassified document does not include the full supporting information and does not discuss specific intelligence reports, sources, or methods.

This Intelligence Community Assessment was prepared by the National Intelligence Council under the auspices of the National Intelligence Officer (NIO) for Cyber. It was drafted by the National Intelligence Council and CIA, DHS, FBI, INR, and NSA, and coordinated with CIA, DHS, FBI, INR, Treasury, and NSA.

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Background

This document is a declassified version of a classified report that the Intelligence Community provided to the President, senior Executive Branch officials, and Congressional leadership and intelligence oversight committees on 07 January 2021. The Intelligence Community rarely can publicly reveal the full extent of its knowledge or the specific information on which it bases its analytic conclusions, as doing so could endanger sensitive sources and methods and imperil the Intelligence Community's ability to collect critical foreign intelligence. The analytic judgments outlined below are identical to those in the classified version, but this declassified document does not include the full supporting information and does not discuss specific intelligence reports, sources, or methods.

Scope Note

This Intelligence Community Assessment (ICA), as required by Executive Order (EO) 13848(1)(a), addresses key foreign actors' intentions and efforts to influence or interfere with the 2020 US federal elections or to undermine public confidence in the US election process. It builds on analysis published throughout the election cycle and provided to Executive Branch and Congressional leaders. This ICA does not include an assessment of the impact foreign malign influence and interference activities may have had on the outcome of the 2020 election. The US Intelligence Community is charged with monitoring and assessing the intentions, capabilities, and actions of foreign actors; it does not analyze US political processes or actors, election administration or vote tabulation processes, or public opinion.

- Pursuant to EO 13848(1)(b), after receiving this assessment, the Attorney General and the Secretary of Homeland Security, in consultation with the heads of any other appropriate Federal, State, or local agencies, will evaluate the impact of any foreign efforts on the security or integrity of election infrastructure or infrastructure pertaining to a political organization, campaign, or candidate in a 2020 US federal election, and document the evaluation in a report.
- Pursuant to EO 13848(3)(a), after reviewing this assessment and the report required by EO 13848(1)(b), the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, will impose appropriate sanctions for activities determined to constitute foreign interference in a US election.

Definitions

For the purpose of this assessment, **election influence** includes overt and covert efforts by foreign governments or actors acting as agents of, or on behalf of, foreign governments intended to affect directly or indirectly a US election—including candidates, political parties, voters or their preferences, or political processes. **Election interference** is a subset of election influence activities targeted at the technical aspects of the election, including voter registration, casting and counting ballots, or reporting results.

Sources of Information

In drafting this ICA, we considered intelligence reporting and other information made available to the Intelligence Community as of 31 December 2020.

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Key Judgment 1: We have no indications that any foreign actor attempted to alter any technical aspect of the voting process in the 2020 US elections, including voter registration, casting ballots, vote tabulation, or reporting results. We assess that it would be difficult for a foreign actor to manipulate election processes at scale without detection by intelligence collection on the actors themselves, through physical and cyber security monitoring around voting systems across the country, or in post-election audits. The IC identified some successful compromises of state and local government networks prior to Election Day—as well as a higher volume of unsuccessful attempts—that we assess were not directed at altering election processes. Some foreign actors, such as Iran and Russia, spread false or inflated claims about alleged compromises of voting systems to undermine public confidence in election processes and results.

Key Judgment 2: We assess that Russian President Putin authorized, and a range of Russian government organizations conducted, influence operations aimed at denigrating President Biden's candidacy and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the US. Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure. We have high confidence in our assessment; Russian state and proxy actors who all serve the Kremlin's interests worked to affect US public perceptions in a consistent manner. A key element of Moscow's strategy this election cycle was its use of proxies linked to Russian intelligence to push influence narratives—including misleading or unsubstantiated allegations against President Biden—to US media organizations, US officials, and prominent US individuals, including some close to former President Trump and his administration.

Key Judgment 3: We assess that Iran carried out a multi-pronged covert influence campaign intended to undercut former President Trump's reelection prospects—though without directly promoting his rivals—undermine public confidence in the electoral process and US institutions, and sow division and exacerbate societal tensions in the US. We have high confidence in this assessment. We assess that Supreme Leader Khamenei authorized the campaign and Iran's military and intelligence services implemented it using overt and covert messaging and cyber operations.

Key Judgment 4: We assess that China did not deploy interference efforts and considered but did not deploy influence efforts intended to change the outcome of the US Presidential election. We have high confidence in this judgment. China sought stability in its relationship with the United States, did not view either election outcome as being advantageous enough for China to risk getting caught meddling, and assessed its traditional influence tools—primarily targeted economic measures and lobbying—would be sufficient to meet its goal of shaping US China policy regardless of the winner. The NIO for Cyber assesses, however, that China did take some steps to try to undermine former President Trump's reelection.

Key Judgment 5: We assess that a range of additional foreign actors—including Lebanese Hizballah, Cuba, and Venezuela—took some steps to attempt to influence the election. In general, we assess that they were smaller in scale than the influence efforts conducted by other actors this election cycle. Cybercriminals disrupted some election preparations; we judge their activities probably were driven by financial motivations.

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Please also see DNI memorandum: Views on Intelligence Community Election Security Analysis, dated January 7, 2021.

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Discussion

Foreign governments or other foreign actors often try to influence the politics and policies of other countries. They may, for example, advocate for and try to shape other countries' foreign policies in ways that benefit their political, economic, and military interests. These efforts range along a spectrum from public statements and foreign assistance efforts, to sanctions and other economic pressure such as boycotts, to covert or clandestine efforts such as covert messaging and recruiting agents of influence. When such activities are intended to directly or indirectly affect an election—including candidates, political parties, voters or their preferences, or political processes—the IC characterizes it as **election influence**. If a foreign government, as part of its election influence efforts, attempts or takes actions to target the technical aspects of elections—including voter registration, casting and counting of ballots, and reporting of results, the IC characterizes it as **election interference**.

In 2020, the IC tracked a broader array of foreign actors taking steps to influence US elections than in past election cycles, a development that may be explained by several factors. First, increased IC focus on this issue may have uncovered a higher percentage of efforts. Second, more actors may view influence operations as important tools for projecting power abroad. The growth of internet and social media use means foreign actors are more able to reach US audiences directly, while the tools for doing so are becoming more accessible. Third, some foreign actors may perceive influence activities around US elections as continuations of broad, ongoing efforts rather than specially demarcated campaigns. They may also perceive

that such a continuum makes it more difficult for the US to single out and respond to specifically election-focused influence efforts. Finally, as more foreign actors seek to exert influence over US elections, additional actors may increasingly see election-focused influence efforts as an acceptable norm of international behavior.

Greater public and media awareness of influence operations in 2020 compared to past election cycles probably helped counter them to some degree. US Government public messaging as well as Government and private sector actions probably also disrupted some activities. For example, proactive information sharing with social media companies facilitated the expeditious review, and in many cases removal, of social media accounts covertly operated by Russia and Iran. Additionally, public disclosure of Russian and Iranian efforts and US Government sanctions on some of the responsible actors probably hindered their ability to operate deniably.

Election Interference

We have no indications that any foreign actor attempted to interfere in the 2020 US elections by altering any technical aspect of the voting process, including voter registration, ballot casting, vote tabulation, or reporting results. We assess that it would be difficult for a foreign actor to manipulate election processes at scale without detection by intelligence collection on the actors themselves, through physical and cyber security monitoring around voting systems across the country, or in post-election audits of electronic results and paper backups. We identified some successful compromises of state and local government networks prior to Election Day. We assess these intrusions were

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parts of broader campaigns targeting US networks and not directed at the election. Some foreign actors, such as Iran and Russia, spread false or inflated claims about alleged compromises of voting systems to try to undermine public confidence in election processes and results.

Over the course of the election cycle, the IC, other US agencies, and state and local officials also identified thousands of reconnaissance or low-level, unsuccessful attempts to gain access to county or state government networks. Such efforts are common and we have no indications they were aimed at interfering in the election.

- Some of these government networks hosted, among a variety of other government processes, election-related elements like voter registration databases or state election results reporting websites. We have no indications that these activities altered any election processes or data.
- Defensive measures such as firewalls, up-to-date patching, cybersecurity training for government personnel, and separation of election-specific systems from other computer networks probably helped to thwart thousands of compromise attempts. Such measures probably also would have helped prevent the network intrusions we detected.

Russia's Efforts to Influence 2020 Election, Exacerbate Divisions in US

We assess that President Putin and the Russian state authorized and conducted influence operations against the 2020 US presidential election aimed at denigrating President Biden and the Democratic Party, supporting former President Trump, undermining public confidence in the electoral process, and exacerbating sociopolitical divisions in the US. Unlike in 2016, we did not see persistent Russian cyber efforts to gain access to election infrastructure. We have high confidence in these judgments because a range of Russian state and proxy actors who all serve the Kremlin's interests worked to affect US public perceptions. We also have high confidence because of

the consistency of themes in Russia's influence efforts across the various influence actors and throughout the campaign, as well as in Russian leaders' assessments of the candidates. **A key element of Moscow's strategy this election cycle was its use of people linked to Russian intelligence to launder influence narratives—including misleading or unsubstantiated allegations against President Biden—through US media organizations, US officials, and prominent US individuals, some of whom were close to former President Trump and his administration.**

Kremlin Direction of Influence Activity

We assess that President Putin and other senior Russian officials were aware of and probably directed Russia's influence operations against the 2020 US Presidential election. For example, we assess that Putin had purview over the activities of Andriy Derkach, a Ukrainian legislator who played a prominent role in Russia's election influence activities. Derkach has ties to Russian officials as well as Russia's intelligence services.

- Other senior officials also participated in Russia's election influence efforts—including senior national security and intelligence officials who we assess would not act without receiving at least Putin's tacit approval.

Actors, Methods, and Operations

We assess that Russia's intelligence services, Ukraine-linked individuals with ties to Russian intelligence and their networks, and Russian state media, trolls, and online proxies engaged in activities targeting the 2020 US presidential election. The primary effort the IC uncovered revolved around a narrative—that Russian actors began spreading as early as 2014—alleging corrupt ties between President Biden, his family, and other US officials and Ukraine. Russian intelligence services relied on Ukraine-linked proxies and these proxies' networks—including their US contacts—to spread this narrative to give Moscow plausible deniability of their involvement. We assess that the goals of this effort went beyond the US presidential campaign

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to include reducing the Trump administration's support for Ukraine. As the US presidential election neared, Moscow placed increasing emphasis on undermining the candidate it saw as most detrimental to its global interests. We have no evidence suggesting the Ukrainian Government was involved in any of these efforts.

- A network of Ukraine-linked individuals—including Russian influence agent Konstantin Kilimnik—who were also connected to the Russian Federal Security Service (FSB) took steps throughout the election cycle to damage US ties to Ukraine, denigrate President Biden and his candidacy, and benefit former President Trump's prospects for reelection. We assess this network also sought to discredit the Obama administration by emphasizing accusations of corruption by US officials, and to falsely blame Ukraine for interfering in the 2016 US presidential election.
- Derkach, Kilimnik, and their associates sought to use prominent US persons and media conduits to launder their narratives to US officials and audiences. These Russian proxies met with and provided materials to Trump administration-linked US persons to advocate for formal investigations; hired a US firm to petition US officials; and attempted to make contact with several senior US officials. They also made contact with established US media figures and helped produce a documentary that aired on a US television network in late January 2020.
- As part of his plan to secure the reelection of former President Trump, Derkach publicly released audio recordings four times in 2020 in attempts to implicate President Biden and other current or former US Government officials in allegedly corrupt activities related to Ukraine. Derkach also worked to initiate legal proceedings in Ukraine and the US related to these allegations. Former Ukrainian officials associated with Derkach sought to promote similar claims throughout late 2019 and 2020, including through direct outreach to senior US Government officials.

We assess that Russia's cyber units gathered information to inform Kremlin decision-making about the election and Moscow's broader foreign policy interests. Through these operations, Russia probably gathered at least some information it could have released in influence operations. We assess Russia did not make persistent efforts to access election infrastructure, such as those made by Russian intelligence during the last US presidential election.

- For example, shortly after the 2018 midterm elections, Russian intelligence cyber actors attempted to hack organizations primarily affiliated with the Democratic Party. Separately, the GRU unsuccessfully targeted US political actors in 2019 and 2020; this activity aligned with the tactics of a larger intelligence-gathering campaign.
- In late 2019, GRU cyber actors conducted a phishing campaign against subsidiaries of Burisma holdings, likely in an attempt to gather information related to President Biden's family and Burisma.
- We judge that Russian cyber operations that targeted and compromised US state and local government networks in 2020—including exfiltrating some voter data—were probably not election-focused and instead part of a broader campaign targeting dozens of US and global entities.

Throughout the election cycle, Russia's online influence actors sought to affect US public perceptions of the candidates, as well as advance Moscow's long-standing goals of undermining confidence in US election processes and increasing sociopolitical divisions among the American people. During the presidential primaries and dating back to 2019, these actors backed candidates from both major US political parties that Moscow viewed as outsiders, while later claiming that election fraud helped what they called "establishment" candidates. Throughout the election, Russia's online influence actors sought to amplify mistrust in the electoral process by denigrating mail-in

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ballots, highlighting alleged irregularities, and accusing the Democratic Party of voter fraud.

- The Kremlin-linked influence organization Project Lakhta and its Lakhta Internet Research (LIR) troll farm—commonly referred to by its former moniker Internet Research Agency (IRA)—amplified controversial domestic issues. LIR used social media personas, news websites, and US persons to deliver tailored content to subsets of the US population. LIR established short-lived troll farms that used unwitting third-country nationals in Ghana, Mexico, and Nigeria to propagate these US-focused narratives, probably in response to efforts by US companies and law enforcement to shut down LIR-associated personas.
- Russian state media, trolls, and online proxies, including those directed by Russian intelligence, published disparaging content about President Biden, his family, and the Democratic Party, and heavily amplified related content circulating in US media, including stories centered on his son. These influence actors frequently sought out US contributors to increase their reach into US audiences. In addition to election-related content, these online influence actors also promoted conspiratorial narratives about the COVID-19 pandemic, made allegations of social media censorship, and highlighted US divisions surrounding protests about racial justice.
- Russian online influence actors generally promoted former President Trump and his commentary, including repeating his political messaging on the election results; the presidential campaign; debates; the impeachment inquiry; and, as the election neared, US domestic crises. Influence actors sometimes sought to discourage US left-leaning audiences from voting by suggesting that neither candidate was a preferable option. At the same time, Russian actors criticized former President Trump or his administration when they pursued foreign policies—such as the targeted killing of

Iranian General Qasem Soleimani in January 2020—at odds with Russia's preferences.

- LIR, which probably receives tasking and strategic direction from the Kremlin, pushed stories supporting former President Trump and denigrating President Biden after he became the presumptive nominee in April.

Evaluating Moscow's Calculus on the 2020 Election

We assess that Russian leaders viewed President Biden's potential election as disadvantageous to Russian interests and that this drove their efforts to undermine his candidacy. We have high confidence in this assessment.

- Russian officials and state media frequently attacked President Biden for his leading role in the Obama administration's Ukraine policy and his support for the anti-Putin opposition in Russia, suggesting the Kremlin views him as part of a reflexively anti-Russia US foreign policy establishment. Putin probably also considers President Biden more apt to echo the idea of American "exceptionalism," which he and other Kremlin leaders have often publicly criticized as problematic and dangerous.
- Moscow's range of influence actors uniformly worked to denigrate President Biden after his entrance into the race. Throughout the primaries and general election campaign, Russian influence agents repeatedly spread unsubstantiated or misleading claims about President Biden and his family's alleged wrongdoing related to Ukraine. By contrast, during the Democratic primaries Russian online influence actors promoted candidates that Moscow viewed as outside what it perceives to be an anti-Russia political establishment.
- Even after the election, Russian online influence actors continued to promote narratives questioning the election results and disparaging President Biden

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and the Democratic Party. These efforts parallel plans Moscow had in place in 2016 to discredit a potential incoming Clinton administration, but which it scrapped after former President Trump's victory.

We assess Russian leaders preferred that former President Trump win reelection despite perceiving some of his administration's policies as anti-Russia.

We have high confidence in this assessment based in part on the Kremlin's public comments about him and the consistency and volume of anti-Biden messaging we detected from Russian online influence actors.

As the election neared, Kremlin officials took some steps to prepare for a Biden administration, probably because they believed former President Trump's prospects for re-election had diminished.

- Putin—while praising former President Trump personally during an interview in October—noted that President Biden appeared willing to extend the New START Treaty (NST) or negotiate a new strategic offensive reduction treaty. The comments were consistent with Russian officials' view that a potential Biden administration would be more open to arms control negotiations.

Moscow almost certainly views meddling in US elections as an equitable response to perceived actions by Washington and an opportunity to both undermine US global standing and influence US decision-making. We assess that Moscow will continue election influence efforts to further its longstanding goal of weakening Washington because the Kremlin has long deemed that a weakened United States would be less likely to pursue assertive foreign and security policies abroad and more open to geopolitical bargains with Russia.

- Russian officials are probably willing to accept some risk in conducting influence operations targeting the US—including against US elections—because they believe Washington meddles similarly in Russia and other countries

and that such efforts are endemic to geostrategic competition.

- Russian officials probably also assess that continued influence operations against the United States pose a manageable risk to Russia's image in Washington because US-Russia relations are already extremely poor.

Iran's Influence Campaign Designed to Undercut Former President Trump's Reelection, Sow Discord

We assess with high confidence that Iran carried out an influence campaign during the 2020 US election season intended to undercut the reelection prospects of former President Trump and to further its longstanding objectives of exacerbating divisions in the US, creating confusion, and undermining the legitimacy of US elections and institutions. We did not identify Iran engaging in any election interference activities, as defined in this assessment. Tehran's efforts were aimed at denigrating former President Trump, not actively promoting his rivals. We assess that Tehran designed its campaign to attempt to influence US policy toward Iran, distract US leaders with domestic issues, and to amplify messages sympathetic to the Iranian regime. Iran's efforts in 2020—especially its e-mails to individual US voters and efforts to spread allegations of voter fraud—were more aggressive than in past election cycles.

- We assess that Tehran's efforts to attempt to influence the outcome of the 2020 US election and Iranian officials' preference that former President Trump not be reelected were driven in part by a perception that the regime faced acute threats from the US.
- Iran's election influence efforts were primarily focused on sowing discord in the United States and exacerbating societal tensions—including by creating or amplifying social media content that criticized former President Trump—probably because they believed that this advanced Iran's

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longstanding objectives and undercut the prospects for the former President's reelection without provoking retaliation.

Actors, Methods, and Operations

We assess that Supreme Leader Ali Khamenei probably authorized Iran's influence campaign and that it was a whole of government effort, judging from the involvement of multiple Iranian Government elements. We have high confidence in this assessment.

- Iran focused its social media and propaganda on perceived vulnerabilities in the United States, including the response to the COVID-19 pandemic, economic recession, and civil unrest.

During this election cycle Iran increased the volume and aggressiveness of its cyber-enabled influence efforts against the United States compared to past election influence efforts. This included efforts to send threatening e-mails to American citizens and to amplify concerns about voter fraud in the election.

- In a highly targeted operation, Iranian cyber actors sent threatening, spoofed emails purporting to be from the Proud Boys group to Democratic voters in multiple US states, demanding that the individuals change their party affiliation and vote to reelect former President Trump. The same actors also produced and disseminated a video intending to demonstrate alleged voter fraud.
- Since early 2020, Iranian actors created social media accounts that targeted the United States and published over 1,000 pieces of online content on the United States, though US social media companies subsequently removed many. Tehran expanded the number of its inauthentic social media accounts to at least several thousand and boosted the activity of existing accounts, some of which dated back to 2012.

Post-Election Activity

We assess that Iran continues to use influence operations in attempts to inflame domestic tensions in the US. For example, in mid-December 2020, Iranian cyber actors were almost certainly responsible for the creation of a website containing death threats against US election officials.

- We assess Iran is also seeking to exploit the post-election environment to collect intelligence.

We assess that Iranian actors did not attempt to manipulate or attack any election infrastructure.

- In early 2020, Iranian cyber actors exploited a known vulnerability to compromise US entities associated with election infrastructure as a part of a broad targeting effort across multiple sectors worldwide. Given the breadth and number of the targets, we judge that Iran did not specifically intend to use the results of this effort as part of its election influence campaign.

We assess that Iran primarily relied on cyber tools and methods to conduct its covert operations because they are low cost, deniable, scalable, and do not depend on physical access to the United States. Iranian cyber actors who focused on influence operations targeting the election adapted their activities and content based on political developments and blended cyber intrusions with online influence operations.

- As part of their influence operations, Iranian cyber actors sought to exploit vulnerabilities on US states' election websites, as well as news website content management systems.
- Iranian cyber actors sent spearphishing emails to current and former senior officials and members of political campaigns, almost certainly with the

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intent to gain derogatory information or accesses for follow-on operations.

China Did Not Attempt to Influence Presidential Election Outcome

We assess that China did not deploy interference efforts and considered but did not deploy influence efforts intended to change the outcome of the US presidential election. We have high confidence in this judgment. China sought stability in its relationship with the United States and did not view either election outcome as being advantageous enough for China to risk blowback if caught. Beijing probably believed that its traditional influence tools, primarily targeted economic measures and lobbying key individuals and interest groups, would be sufficient to achieve its goal of shaping US policy regardless of who won the election. **We did not identify China attempting to interfere with election infrastructure or provide funding to any candidates or parties.**

- The IC assesses that Chinese state media criticism of the Trump administration's policies related to China and its response to the COVID-19 pandemic remained consistent in the lead-up to the election and was aimed at shaping perceptions of US policies and bolstering China's global position rather than to affect the 2020 US election. The coverage of the US election, in particular, was limited compared to other topics measured in total volume of content.
- China has long sought to influence US politics by shaping political and social environments to press US officials to support China's positions and perspectives. We did not, however, see these capabilities deployed for the purpose of shaping the electoral outcome.

Beijing probably judged risk of interference was not worth the reward

We assess that Beijing's risk calculus against influencing the election was informed by China's

preference for stability in the bilateral relationship, their probable judgment that attempting to influence the election could do lasting damage to US-China ties, and belief that the election of either candidate would present opportunities and challenges for China.

- We judge that Chinese officials would work with former President Trump if he won a second term. Beijing since at least 2019 has stressed the need to improve bilateral ties after the election regardless of who won.
- In addition, China was probably concerned the United States would use accusations of election interference to scapegoat China. This may in part account for Beijing waiting until 13 November to congratulate President Biden.

We assess that Beijing also believes there is a bipartisan consensus against China in the United States that leaves no prospect for a pro-China administration regardless of the election outcome.

China probably expected that relations would suffer under a second term for former President Trump because he and his administration would press for further economic decoupling and challenge China's rise. It probably also believed that China in this scenario could increase its international clout because it perceived that some of the Trump administration's policies would alienate US partners.

- Beijing probably expected that President Biden would be more predictable and eager to initially deescalate bilateral tensions but would pose a greater challenge over the long run because he would be more successful in mobilizing a global alliance against China and criticizing China's human rights record.
- Beijing probably judged that Russia's efforts to interfere in the 2016 election significantly damaged Moscow's position and relationship with the United States and may have worried that Washington would uncover a Chinese attempt to

deploy similar measures to influence or interfere in the election and punish Beijing.

Beijing probably continued to collect intelligence on election-related targets and topics

China probably also continued longstanding efforts to gather information on US voters and public opinion; political parties, candidates and their staffs; and senior government officials. We assess Beijing probably sought to use this information to predict electoral outcomes and to inform its efforts to influence US policy toward China under either election outcome, as it has during all election cycles since at least 2008 and considers an acceptable tool of statecraft.

- We assess Beijing did not interfere with election infrastructure, including vote tabulation or the transmission of election results.

Minority View

The National Intelligence Officer for Cyber assesses that China took at least some steps to undermine former President Trump's reelection chances, primarily through social media and official public statements and media. The NIO agrees with the IC's view that Beijing was primarily focused on countering anti-China policies, but assesses that some of Beijing's influence efforts were intended to at least indirectly affect US candidates, political processes, and voter preferences, meeting the definition for election influence used in this report. The NIO agrees that we have no information suggesting China tried to interfere with election processes. The NIO has moderate confidence in these judgments.

This view differs from the IC assessment because it gives more weight to indications that Beijing preferred former President Trump's defeat and the election of a more predictable member of the establishment instead, and that Beijing implemented

some—and later increased—its election influence efforts, especially over the summer of 2020. The NIO assesses these indications are more persuasive than other information indicating that China decided not to intervene. The NIO further assesses that Beijing calibrated its influence efforts to avoid blowback.

Other Actors

A range of additional foreign actors took some steps to attempt to influence the election. In general, we assess that they were smaller in scale than those conducted by Russia and Iran.

We assess that Hizballah Secretary General Hassan Nasrallah supported efforts to undermine former President Trump in the 2020 US election. Nasrallah probably saw this as a low-cost means to mitigate the risk of a regional conflict while Lebanon faces political, financial, and public health crises.

We assess Cuba sought to undermine former President Trump's electoral prospects by pushing anti-Republican and pro-Democrat narratives to the Latin American community. Cuban intelligence probably conducted some low-level activities in support of this effort.

The Venezuelan regime of Nicolas Maduro had an adversarial relationship with the Trump administration and we assess that Maduro had the intent, though probably not the capability, to try to influence public opinion in the US against the former President. We have no information suggesting that the current or former Venezuelan regimes were involved in attempts to compromise US election infrastructure.

Foreign Cybercriminals Disrupted Some Election Preparation

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Profit-motivated cybercriminals disrupted election preparations in some US states with ransomware attacks intended to generate profit. We have no indications that these actors sought to use these attacks to alter election functions or data, nor do we have indications that they were acting on behalf of any government.

- For example, in late October, probably foreign ransomware actors demanded payment from a New York county after encrypting 300 computers and 22 servers on the network with Ragnarok malware that prevented it from connecting to a statewide voter registration system. County officials directed voters who had applied via email for an absentee ballot to call and verify their ballot application had been received and processed.
- We do not know whether cybercriminals specifically targeted election-related networks with profit-making schemes or whether their activity reflected a general targeting of state and local government networks that also happen to host election-related processes.
- We assess foreign cybercriminals probably did not work to interfere or influence the US elections on behalf of or at the direction of a nation state. We have low confidence in this assessment. We assess that some cybercrime groups probably operate with at least the tacit approval of their nation state hosts.

Foreign Hacktivists

The IC tracked a handful of unsuccessful hacktivist attempts to influence or interfere in the 2020 US elections.

- In November, hackers promoting Turkish nationalist themes breached and defaced a website previously established for a candidate in the US presidential campaign, according to US cybersecurity press.

- In October, a hacker briefly defaced a presidential campaign website after gaining access probably using administrative credentials.

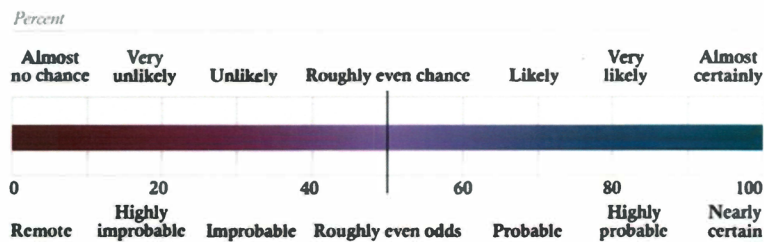
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Estimative Language

Estimative language consists of two elements: judgment about the likelihood of developments or events occurring and levels of confidence in the sources and analytic reasoning supporting the judgments. Judgments are not intended to imply that we have proof that shows something to be a fact. Assessments are based on collected information, which is often incomplete or fragmentary, as well as logic, argumentation, and precedents.

Judgments of Likelihood

The chart below approximates how judgments of likelihood correlate with percentages. Unless otherwise stated, the Intelligence Community's judgments are not derived via statistical analysis. Phrases such as "we judge" and "we assess"—and terms such as "probably" and "likely"—convey analytical assessments.



Confidence in our Judgments

Confidence levels provide assessments of timeliness, consistency, and extent of intelligence and open source reporting that supports judgements. They also take into account the analytic argumentation, the depth of relevant expertise, the degree to which assumptions underlie analysis, and the scope of information gaps.

We ascribe high, moderate, or low confidence to assessments:

- High confidence** generally indicates that judgments are based on sound analytic argumentation and high-quality consistent reporting from multiple sources, including clandestinely obtained documents, clandestine and open source reporting, and in-depth expertise; it also indicates that we have few intelligence gaps, have few assumptions underlying the analytic line, have found potential for deception to be low, and have examined long-standing analytic judgements held by the IC and considered alternatives. For most intelligence topics, it will not be appropriate to claim high confidence for judgements that forecast out a number of years. High confidence in a judgment does not imply that the assessment is a fact or a certainty; such judgments might be wrong even though we have a higher degree of certainty that they are accurate.
- Moderate confidence** generally means that the information is credibly sourced and plausible but not of sufficient quality or corroborated sufficiently to warrant a higher level of confidence. There may, for example, be information that cuts in a different direction. We have in-depth expertise on the topic, but we may acknowledge assumptions that underlie our analysis and some information gaps; there may be minor analytic differences within the IC, as well as moderate potential for deception.
- Low confidence** generally means that the information's credibility and/or plausibility is uncertain; that the information is fragmented, dated, or poorly corroborated; or that reliability of the sources is questionable. There may be analytic differences within the IC, several significant information gaps, high potential for deception or numerous assumptions that must be made to draw analytic conclusions. In the case of low confidence, we are forced to use current data to project out in time, making a higher level of confidence impossible.

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Chair NADLER. The gentlelady yields back. Mr. Fitzgerald.

Mr. FITZGERALD. Director Wray, on May 14, 2021, yourself as Director of the FBI and the Secretary of DHS, in consultation with Director of National Intelligence jointly produced the report containing the strategic assessment and data on domestic terrorism.

Of note, the FBI finally designated the 2017 shooting of Congressional Republicans as an Act of domestic terrorism carried out by a domestic violent extremist, rather than suicide by cop, as the FBI initially had classified the shooting. How did the FBI initially reach its conclusion that the attack was suicide by cop, and who made the determination and then, ultimately, why was there a change, do you believe?

Mr. WRAY. Well, Congressman, I appreciate the question. So, as you may know, after a very thoughtful conversation I had with Congressman Wenstrup in April, I asked my team to go back and take a hard look at that particular shooting.

I think what we found is that from the time that I first arrived as Director, the FBI's understanding of domestic violent extremism has evolved. More and more we see domestic violent extremists motivated by mixes or almost mishmashes of ideological, sociopolitical, and personal grievances.

I think the shooter at the baseball practice that day, back in 2017, is fairly considered an early example of that phenomenon. So, that's part of why I want it to be clear that the FBI considers that shooting an Act of domestic terrorism, that we look at it under the umbrella of domestic violent extremism, and that if it—same thing had occurred today, we would absolutely open it as a domestic terrorist investigation. We tried to make that explicit, both directly to Congressman Wenstrup and in the report, which you referred to, which we formally transmitted to Congress.

Mr. FITZGERALD. So, would you consider that a change in posture by the FBI on domestic terrorists overall?

Mr. WRAY. Well, it's part of a—I don't know about posture, but it's part of a more evolved understanding of the way in which domestic violent extremism affects this country. We are seeing much more often now not people who commit attacks based on some nice, neat, cookie-cutter ideology, and this is their sole motivation, but rather, people who take bits and pieces of things together with some personal beef and then attack.

We consider that to be, in many ways, the most increasingly common form of domestic violent extremism. So, again, I would view it not so much a change in posture as that attack was one of the earlier versions of this phenomenon that is quite rampant now.

Like just the other day, we had these folks in Minneapolis, for example, who were so-called Boogaloo boys, but they were ultimately charged with trying to provide material support to Hamas. We had a guy the other day who was subscribing to various Islamist violent extremism but also considered himself a neo-Nazi.

Then with all of them wrapped up with them, you have these people who blend into it personal agendas, having nothing to do with ideology at all. So, when you put all that together in sort of a salad bar of motivations, we think it's fair to look at something like the Simpson field shooter as a domestic violent extremist, a domestic terrorist. That's why, again, if it would happen today, I

think we would certainly consider that part and parcel of what we call domestic terrorism.

Mr. FITZGERALD. So, since the George Floyd incident, there's been hundreds of flare-ups domestically in many of the large municipalities throughout the Nation. It was a long, hot summer last summer. What is the approach that the FBI is taking as we—here we are at the beginning of June—as we look forward, and what is the approach that the FBI is using with those types of domestic flare-ups that we are seeing, again, across the Nation?

Mr. WRAY. Well, we are latched up very tightly with our State and local partners. When I go, and I've been to all 56 of our field offices, most of them more than once, I am almost at all of them at least twice now, I've met with law enforcement from all 50 States, chiefs, sheriffs, commissioners, colonels, et cetera, and we are all very concerned about the rise in violent crime, the homicide rates in particular. We all think that, in some ways, the summer could be the worst yet to come in a while.

So, through our safe streets task forces, through on the terrorism side, our joint terrorism task forces, our violent crime gang task forces, a whole variety of ways we are working, trying to be latched up very tightly with our State and local partners to do our part. Again, the FBI is just one part of a broader law enforcement response, to try to make sure that we do our best to protect our neighborhoods.

Chair NADLER. The gentleman's time is expired.

Mr. FITZGERALD. Yield back.

Chair NADLER. The gentleman yields back.

Ms. Garcia.

Ms. GARCIA. Thank you, Mr. Chair.

First, I want to thank Director Wray for coming to visit with us again. I know it's been a long day, but just take a deep breath. We are almost there. There's just a few more of us to go. I want to first thank you and your 37,000 employees for the great job that you do in keeping America safe.

I just want to first associate myself with all the concerns that many of us have raised about the January 6th incident and everything that has happened. I think that it would be important for us to continue a full investigation. That's why I do support a 9/11-type commission so that we can get an investigation top to bottom, to make sure we find out who is responsible, holding them accountable, and taking steps so it doesn't happen again. So, hopefully, the FBI can play a role in that as we continue forward.

I want to change the focus now on some of the hate crime issues that I have seen generally across America, but here in my city of Houston. Let me be clear: It is inherently un-American and unconscionable for anyone to discriminate against another because of the color of your skin, or where they're from. Yet, here in Houston, just this last month, we've seen two incidents that tell me that we are not doing enough.

On May 14, a bus driver who refused to get off a bus, attacked the Hispanic bus driver saying he hates wetbacks, which you may know is a very derogatory term. Several charges were filed with an enhancement to a hate crime. Now, this was February 14th. Two days later, May 16th at a mall where they had one of these car-

nivals that come and go, a group of carnival workers punched and kicked a man after they pulled him out of his vehicle and yelled racial slurs. They told the victim that they do not like, quote, “Black people and they threatened to hang him.”

Two reported incidents almost back-to-back, and both charges were filed for some other things, and they were all enhanced to hate crimes. This tells me that it’s still happening and happening too much.

Our police department’s hate crime report indicates that in Houston, the hate crimes have almost tripled in the last 50 years. Many of the crimes here in Houston have been formulated to attacks against Latinos for as this—the instance that I mentioned on May 14th of people thinking they’re, quote, “wetbacks” unquote.

So, my question to you is, is this a trend that you are seeing nationally of more attacks against Latinos or immigrants; and if so, what has that cost you to do to reallocate your resources and to make sure that the FBI has what they need to investigate?

I am sure my compadre, Veronica Escobar, would like for me to talk about the most horrific about the hate crimes, which was the gun shooting in El Paso. What are you all doing to step it up, to make sure that we protect everyone no matter where they’re from?

Mr. WRAY. Well, I appreciate the question. Hate crimes are certainly a high priority for us. We, in fact, had a—from fiscal years 2019–2020, a 63 percent increase in FBI hate crimes investigations opened. This year, fiscal year 2021, we have had the highest number of hate crime investigations initiated in the past five years. So, yeah, that’s about 307 or so hate crimes investigations pending, and they cover the waterfront.

You also heard me refer earlier to the domestic terrorism hate crimes fusion cell that we created to try to capture the synergy between those two, so that’s part of it. As far as—and we also do a lot and we are trying to do a lot to engage with the community and with State and local law enforcement, because one of the things we know about hate crimes really across the gamut is that they are historically underreported. So, a big part of it is trying to get—

Ms. GARCIA. My question was, have you seen an increase in attacks against Latinos, and what are you doing to reallocate your resources to get to the root causes of that?

Mr. WRAY. Well, I am not sure about root—investigating root causes. We are investigating hate crimes, including against Latinos. I don’t have the figures for you about increases by a demographic, but—yeah.

Ms. GARCIA. Well, let me move on because you also mentioned, because my concern is that if you don’t do enough, then we’ll see what happens here in Houston that even victims don’t report because they’re scared, number one, and two, there’s language barriers, and they don’t see enough outreach from the FBI for people not being able to know.

You told us earlier, you want to—if we see something, we need to say something. Unless you tell that to people in Spanish, or you make sure you let them know that if they’re victims of crimes, that they should report it, it’s just not going to happen.

Mr. WRAY. I agree that public outreach is important.

Chair NADLER. The gentlelady's time expired. The Witness may answer the question.

Mr. WRAY. Certainly, for example, with the rise in hate crimes against the Jewish community, we have, for example, in New York, done an advertising campaign recently both in Hebrew and in Yiddish to try to make sure we are reaching people there. So, it may be that a similar approach is underway from the relevant field offices. I know in El Paso, I personally visited the crime scene myself as a measure of how seriously I take that attack.

Ms. GARCIA. Thank you. I yield back.

Chair NADLER. The gentlelady yields back.

Ms. Fischbach.

Ms. FISCHBACH. Thank you, Mr. Chair. I would like to yield my time to the Ranking Member, Mr. Jordan.

Mr. JORDAN. I thank the gentlelady for yielding.

Director, it always seems that the leaks from our institutions in government agencies benefit Democrats. I mean, we just had the—as Mr. Bishop pointed out, we just had the fact that the IRS leaked personal tax returns of U.S. citizens. It just happened to be at the time that Democrats are trying to raise taxes on the American people.

Then, of course, there's what happened if—someone from the FBI or DOJ leaking information about the fact that Mr. DeJoy, at least has been reported, that Mr. DeJoy is under investigation, under investigation for, if you can believe what's written in the press, for alleged campaign finance violations that took place between 2004 and 2015. So, even if he did it, it seems to me the statute of limitations has run.

So, I want to ask about that in particular. Is there an internal investigation at the Justice Department, or more specifically, at the FBI? I know you have an inspections division. This is the division on—my understanding that looked into Andy McCabe's issue when he leaked information that he shouldn't have leaked. Is there some kind of internal investigation going on?

Mr. WRAY. Well, as you by now, have probably come to expect from me, Congressman, of course, I can't confirm any specific investigations, but what I can tell you—

Mr. JORDAN. No, I am not talking about an investigation that the FBI is—I am talking about an internal investigation to actions that someone in your division may have leaked information to the press regarding the Postmaster General.

Mr. WRAY. Likewise, I wouldn't confirm a specific investigation. Our inspection division has a unit dedicated to internal investigations, and we've put some of our best people in it because of how important it is. We also have, that I stood up in the last Administration, in our counterintelligence division, a dedicated leak unit to pursue criminal investigations where that is appropriate. In some cases, they work with each other, because there's an administrative side and a criminal side. Really that's all I can say. I can't really confirm specific investigations.

Mr. JORDAN. No, I understand. You've given that answer that to us, and I get that. You've given that answer to us a thousand times a day and a thousand times in the other times you testified. I understand that. We are talking about the Postmaster General of the

United States. We are talking about the tax returns of the American—of American citizens, again, all conveniently timed, it seems to me.

I mean, last summer the Democrats—many of the Democrats called for the Postmaster General to step down. They left had all kinds of protesters at his house last summer and the whole debate about mail-in voting. Then we see this story sort of out of nowhere that supposedly he's under investigation. I just was curious if you'd tell us if it's internal.

Does the FBI give critical race theory training to your agents and employees?

Mr. WRAY. Not to my knowledge. We certainly provide different kinds of diversity training just like almost any organization these days, but certainly, I've never heard of any kind of critical race theory training.

Mr. JORDAN. Is that a yes or no? Is there a critical race theory training going on at the FBI? Yes or no?

Mr. WRAY. My answer is, not that I am aware of.

Mr. JORDAN. Not that you are aware of, okay. How about the issue of this—*Washington Post* reported back in April that the FBI sent, quote, “geofence search warrants to Google and got information about January 6th,” phone numbers of folks here on Capitol Hill, and that include Members and staff and others who were authorized to be in the Capitol on that date.

How did you distinguish—it's our understanding, according to the news reports, there's an exclusion list of folks who were supposed to be in the Capitol that day. How is that all being handled? How did you determine who's on the exclusion list? Who isn't? How did you get that information? What are you doing with that information now, particularly the phone numbers and identifying phones of Members of Congress and staff who are supposed to be on Capitol Hill?

Mr. WRAY. So, I think you anticipated probably the most important part in your question, which is, again, and I want to be careful not to talk about any specific investigation, but the geolocation data that we are talking about is, again, it doesn't identify a person. It identifies a device.

So, one of the first things we needed to do, because on January 6th itself our focus was on trying to secure you all and the facility, so we weren't arresting people here on site. So, after the fact we needed to figure out who was here by looking at the list of device numbers.

Then with that, we needed to be able to get from—and I think we got it from the Capitol Police, but I am not sure about that, a list of who was, as you said, supposed to be here so that we could exclude those people and focus on the numbers—

Mr. JORDAN. We know that—

Mr. WRAY. —of people that were not supposed to be here, and then using those numbers, then start to pursue logical investigative leads on the people who were not supposed to be here.

Mr. JORDAN. No, I appreciate that, and thank you. Some people who were supposed to be here we know were subsequently called by the FBI, and they were staff on Capitol Hill. That's because you

didn't know? You were finding out? I mean, what was going on there?

Chair NADLER. The gentlelady's time is expired. The gentleman may—the Witness may answer the question.

Mr. WRAY. Well, again, I don't want to speak to any specific investigation, but our reasons for going to interview witnesses about things are a lot more than geolocation data. So, it may have been that we saw a video footage of somebody, and we think this person saw something in this place, or some witness told us go talk to this person because they know what happened over here.

So, there's a whole host of reasons why we would have gone to interview somebody that might have nothing to do with geolocation data. So, I can't really speak to any specific person who—

Mr. JORDAN. The exclusion—

Chair NADLER. The gentlelady's time is expired.

Mr. Neguse.

Mr. NEGUSE. Thank you, Mr. Chair.

Director Wray, first, I want to say thank you for your testimony, and I want to thank you as well for your service to our country.

Several years ago, as you might be aware, a young man named Elijah McClain died in Colorado, my State, after being placed into two chokeholds by police officers, and then being administered ketamine by paramedics during the arrest.

Nearly one year ago, on June 30th of 2020, the Colorado U.S. Attorney's Office, the Department of Justice, and the Denver Division of the FBI announced that in 2019, they had begun reviewing the facts of this case for potential Federal civil rights investigation.

I'll quote from their statement. They said, quote, "The standard practice of the DOJ is to not disclose the existence or progress of investigations. However, there are specific cases in which doing so is warranted if such information is in the best interest of the public and public safety. Recent attention on the death of Elijah McClain warrants such disclosure," end quote.

Given that statement, Director Wray, can you confirm whether the DOJ has opened a Federal civil rights investigation into this matter?

Mr. WRAY. I would need to consult with the Department about what information we can provide in response to that question, but I am happy to have my staff circle back to you after we've done that.

Mr. NEGUSE. Thank you. I appreciate that, Director Wray, and we'll follow up with your team.

As I mentioned, Mr. McClain was administered the ketamine by EMS personnel. In your opinion, are there any acceptable, nonmedical reasons for law enforcement officers to administer or encourage attending EMS personnel to use sedatives or other medications to subdue a person under arrest?

Mr. WRAY. I am really not comfortable trying to answer a hypothetical that cuts across such a broad range of possible scenarios, so I am afraid I am going to have to decline to really offer much on that particular subject. I am not sure I am the right person to speak to it.

Mr. NEGUSE. Well, I appreciate that, Director Wray. I would just simply say, in my opinion, it's not acceptable for law enforcement

to administer—EMS personnel to be administering ketamine to subdue a person under arrest outside of a hospital setting. It's why we'll be introducing legislation to ensure that ketamine is used for medical purposes only and not as a tool for restraint. We look forward to working with the FBI and other law enforcement agencies on that legislation.

I want to turn to a different topic, which my colleague, Representative Cicilline touched on earlier, you'll recall, Director Wray, during the morning portion of today's hearing, which is the epidemic of gun violence in America.

On March 22nd of this year, a gunman killed 10 people, including a police officer at a grocery store in my district, Boulder, Colorado, allegedly using an AR-15-style pistol which fired rifled rounds and had been modified with an arm brace. The AR pistol brace attachment, as you know, allows a shooter to fire an easily concealable pistol with rifle-like accuracy and firepower.

I would like you, Director Wray, if you might, to describe, in your view, how these types of weapons, these short-barreled rifles, can pose additional risk to law enforcement and ultimately to a community.

Mr. WRAY. Well, I appreciate the question, Congressman. First, just to be clear, I don't want to be weighing in on specific legislative proposals. From a law enforcement perspective, and, of course, there are a variety of different types of high-powered or high-capacity type weapons that are out there, those are things that can be of particular concern to—any time there's an operation that law enforcement is conducting, it's something that we have to be particularly mindful of.

Of course, this hits particularly close to home for me and for us at the FBI, because the two special agents that I mentioned in my opening, Laura Schwarzenberger and Dan Alfin, were shot and killed by an individual child pornography subject using an AR-style weapon. He killed those two agents and injured four others who, thankfully, have survived.

So, it's an illustration of how the wrong weapon in the wrong hands is something that we should all be deeply concerned about.

Mr. NEGUSE. I appreciate that, Director Wray, and we certainly grieve and mourn with you for the agents that you've lost and for their families. We recognize their great sacrifice and service to our country. I share your concern, and I think many here on Capitol Hill do as well.

It's why the Biden Administration's decision, at least with respect to the short-barreled rifles and assault pistols, regulations that they now—the President has asked the ATF to issue. I joined the President and Attorney General Garland at a press conference not that long ago, about seven weeks ago, regarding that step. I think it was an important step and moves us in the right direction.

I think there's clearly other steps that we need to take as Congress to ensure that these weapons of war are not in our community, so that we can keep the entire community, including Members of law enforcement, safe.

With that, I thank you again, Director Wray. I would yield back the balance of my time, Mr. Chair.

Ms. SCANLON. [Presiding.] The Chair recognizes representative Owens for five minutes. Can you unmute?

Mr. OWENS. Sorry. Okay. According to USA Today, last year, 2020, United States counted more than 20,000 murders, the highest total since 1995, and 4,000 more than 2019. Preliminary FBI data for 2020 points to a 25 percent surge in murders, the highest single year increase since the agency began publishing uniform data in 1960.

For the record, hate is hate. Hate is evil regardless of the color. To the victims of hate and their families, it makes no difference the color of the perpetrator. The result is the same: *Death*. Looking at the numbers, I am going to guess that White on Black crimes are up, Black on White crimes are up, Black on Asian crimes are up, attacks against Hispanics and Jewish community are up, and for sure, Black on Black crime is up.

Ninty percent of the Black crimes perpetrated on Black Americans are done by other Blacks. This evil of hate has become so prevalent, that too many Americans, both Black and White, simply shrug their shoulders, think it's normal, and turn the page.

I keep hearing from my friends across the aisle about White supremacy. Based on the unconscionable high death tally of Black Americans in their own communities, it's evident that evil White supremacist is not the greatest threat. Are evil Black perpetrators, predators leading among us?

I ask my fellow lawmakers not to continue to think this plague of evil is normal, shrug our shoulders, and turn the page. It's time for us to work together to end the policies that is keeping too many poor Black Americans, living mostly in urban cities, living in fear, illiteracy, joblessness, hopelessness, and anger.

With that, I want to turn the remainder of my time over to Mr. Jordan.

Mr. JORDAN. I thank the gentleman for yielding. I appreciate his important points.

Director, earlier you said, and I think I am quoting accurately here, we pass information back and forth with social media companies. Can you explain that, because, I mean, just read maybe out of context, I think people have concerns about that. Can you tell me what that means?

Mr. WRAY. I appreciate the question. As I think back to my answer to that question, I was fearful that it might get misconstrued, so I appreciate you asking. What I was referring to is a couple different things, so, one, in connection with foreign misinformation, election influence stuff from, for example, the Russians, there have been instances where we will, based on intelligence we've received from overseas or other places, pass that to social media companies saying, hey, we know this particular account is actually controlled by some Russian troll farm, for example. Then social media companies then take action against that account. They then do their own international investigation, and that then sometimes leads them to—

Mr. JORDAN. Are we talking about a foreigner or an American?

Mr. WRAY. What's that?

Mr. JORDAN. Are we talking about a person, and if we are talking about a person, is it a foreign person or an American person?

Mr. WRAY. Well, the classic example, the one that I just gave is, a foreign source, who is essentially posing as a U.S. voice, and that's the essence of the Russian troll farm that's been—gotten so much attention.

So then, in turn, the social media companies take action. They often will find other accounts linked to that account and take appropriate action. We've seen the same thing, to some extent, with the Iranians in connection with the last election. You may remember when Director Ratcliffe and I did a press conference.

Mr. JORDAN. Right.

Mr. WRAY. It's a little bit of that going on there. So, that's the essence of the back and forth of social media companies that I was referring to. There are other situations, other situations where sometimes social media companies see a threat to life, a violent threat of some sort on their platforms that they will refer to us, which is the responsible thing to do.

Mr. JORDAN. Thank you. So, I just want to be clear, there are times at the direction of the government social media companies take certain action?

Mr. WRAY. Not at the direction, no.

Mr. JORDAN. Well, you just said, you give them information. You said, we were concerned about this who we believe to be a foreign actor. I mean, let me step back a second. The broader concern is we just recently saw communications that were largely redacted between Dr. Fauci and the CEO or the head of Facebook, most of it redacted, and we know what the result of all that was a year ago. It was keeping information that they, at the time, deemed misinformation but, in fact, wasn't very credible information that they kept from the American people.

So, that's my broader concern. It sounds to me like you are—this is something different potentially, but that's the concern we have, I think as Members of the Judiciary Committee, and, frankly, I know American citizens have. So, when you say passing information back and forth working with the social media companies, we are in the context now of this communication, this email communication between Mr. Zuckerberg and Dr. Fauci that is largely redacted, but we know that they colluded to keep information from the American people.

Mr. WRAY. I understand that you are concerned. We are talking about two very different things.

First, social media companies aren't taking action under their terms of service at our direction. Some days I wish they might, but that ain't happening.

Mr. JORDAN. I don't wish—

Mr. WRAY. I am kidding.

Mr. JORDAN. I am nervous about all of it.

Mr. WRAY. I am being a little flippant, but—

Mr. JORDAN. I get it.

Mr. WRAY. No, we pass information. We are investigating. We ask them for information. In the course of passing information to them, they then use that information and sometimes make decisions, again, they would tell you, very much on their own.

Mr. JORDAN. If this information involves an American citizen there would have to be a warrant involved, right?

Ms. SCANLON. The gentleman's time has expired. You can answer this question. Thank you.

Mr. WRAY. I am sorry. Could you repeat the question?

Mr. JORDAN. If the information involves an American citizen, there will have to be some kind of warrant involved. If the government's asking for information from a social media company, there would have to be some kind of warrant involved for you to get that information.

Mr. WRAY. Well, there's a variety of legal process—subpoenas, et cetera—where we pass information, where we are asking for information from them, they provide information in response to the legal process from us.

A lot of the engagement that we are talking about is not that different from the engagement that we have with lots of other industries, as well as financial services, et cetera.

Ms. SCANLON. Thank you.

The gentlewoman from Texas, Ms. Garcia, is recognized for a unanimous consent.

Ms. GARCIA. Madam Chair, I ask for a unanimous consent to submit three documents for the record.

One is a Click2Houston report on “They threatened to hang him’: Carnival worker charged with hate crime after punching, kicking man in parking lot of Alameda Mall.”

The second is from channel 13, “METRO rider charged with hate crime enhancement after allegedly attacking bus driver and 2 officers.”

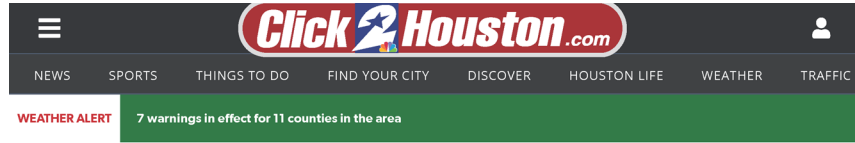
The third is the Houston Police Department annual Hate Crime Report that indicates the three-times increase in hate crimes.

Madam Chair, I ask for unanimous consent.

Ms. SCANLON. Without objection.

[The information follows:]

MS. GARCIA FOR THE RECORD



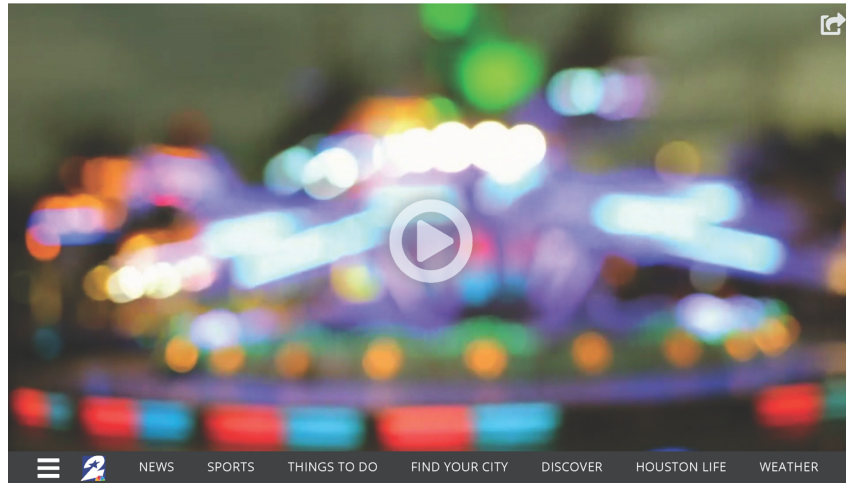
LOCAL NEWS

'They threatened to hang him': Carnival worker charged with hate crime after punching, kicking man in parking lot of Alameda Mall

Andy Cerota, Anchor & Reporter

Published: May 18, 2021 6:38 pm

Tags: Hate Crime, Carnival, Man Injured, Racism





HOUSTON – You’ve probably seen them, or perhaps visited one, a traveling carnival, which is usually set up in the parking lot of a mall.

On Sunday, prosecutors said someone driving through Almeda Mall’s parking lot became the victim of a hate crime when he was attacked by a group of carnival workers.

“The staff at the carnival was pretty upset about where he was driving through. And it’s one of those situations where they could have handled the situation very, very differently. They slashed one of his tires, they’re banging on windows, they’re punching the hood, they’re punching the car itself,” said Chandler Raine, Assistant Harris County District Attorney.

Prosecutors said they began punching and kicking Jaylon Johnson after they pulled him out of his vehicle and yelled racial slurs while they beat him.

“They told him that they do not like Black people. They threatened to hang him while they were there,” Raine said.



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A hate crime enhancement was added to the assault charge against Gilbert Herrera, the one carnival worker who police identified and arrested.

“When they’re tormenting any individual based on who they are, we are going to prosecute,” Raine said.

KPRC 2 reached out to the Wagner Carnival for a comment and is awaiting a response. With the hate crime enhancement, Herrera could face anywhere from 180 days up to a year in jail if convicted.

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ABOUT THE AUTHOR:

METRO rider charged with hate crime enhancement after allegedly attacking bus driver and 2 officers



By Steven Romo

Friday, May 14, 2021

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MORE VIDEOS

METRO police said the 29-year-old is also accused of assaulting one of their officers and a county jail officer, both of whom are also Hispanic.

HOUSTON, Texas (KTRK) -- A METRO rider who refused to get off a bus allegedly attacked the driver and later two officers, one with the public transit and another at the jail where he was detained.

According to METRO police, 29-year-old Dillon Burdick is also accused of attacking the Hispanic driver based on race after he told an officer that he "hates wetbacks."

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**'War on my rights': High school valedictorian
scraps approved speech, delivers abortion rights call**

Police said the ordeal happened Wednesday at about 7:30 p.m. at the end of a bus route in the 13900 block of Veterans Memorial. The bus operator called for help for a man who had fallen asleep on board, refused to get off, and then proceeded to slap him.

A METRO officer who responded to escort the man was then spat on by him, according to police.

The belligerent bus rider also tried kicking at the officer while being placed in a patrol car. It was then inside the cruiser that the officer asked why the suspect attacked the METRO driver, to which the man replied about his hatred of Hispanic people, police said.

As if that wasn't enough, the man, booked into Harris County Jail as Burdick, allegedly kicked a detention officer.

METRO Police Chief Vera Bumpers noted the driver and the two officers that Burdick is accused of attacking are all Hispanic.

Burdick was charged with assault on a public servant and two counts of harassment of a public servant, all enhanced to a hate crime.

Burdick is being held on bond totaling \$7,500. He was not present for his initial appearance in probable cause court because he was being combative at the time.

A follow-up court date was scheduled for Monday.

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HOUSTON POLICE DEPARTMENT

Annual Hate Crime Report



HATE CRIMES

A hate crime is defined as a criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

IMPACT OF HATE CRIMES

Hate crimes victimize not only the individuals or institutions who are targeted, but also the entire community or group they represent. Violent hate crimes may lead to cycles of retaliation and vigilantism that can engulf communities and perpetuate hatred and prejudice.

DEPARTMENT POLICY

The Houston Police Department views all hate crimes as major, and possibly organized, acts, which are given the highest investigation priority possible to ensure rapid apprehension of all persons, involved. HPD's Criminal Intelligence Division investigates all reported hate crimes and has the ultimate responsibility for determining whether a crime is reported to federal or state record keeping agencies as a hate crime.

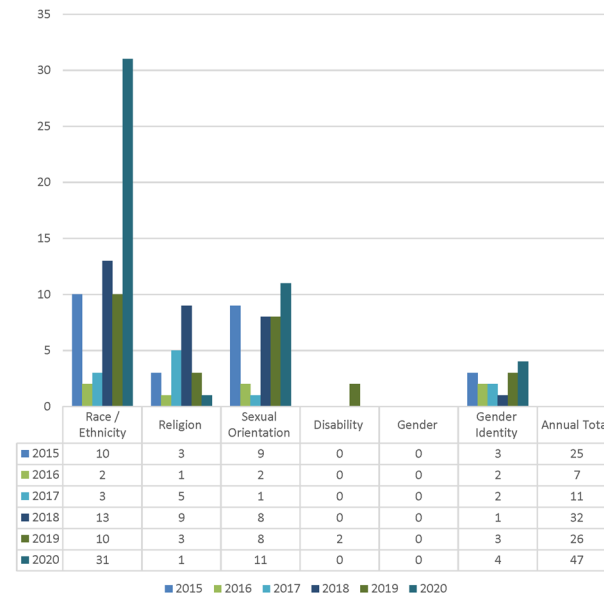
HOW TO REPORT

If you are a victim or a witness to a crime, please report the incident as soon as possible. If the incident is happening now or just happened, call 911 immediately.

For additional resources, please contact:

Houston Police Hate Crimes information line	713.308.8737
Houston Police Victims Services	713.308.0800
Anti-Defamation League	713.627.3490
LGBT Switchboard 24 hour helpline	713.529.3211
The Montrose Counseling Center	713.529.0037

HATE CRIMES: BIAS TYPE BY YEAR



Ms. GARCIA. Thank you, and I yield back.

Ms. SCANLON. Sure. Thank you.

The gentlewoman from Georgia is recognized for five minutes.

Ms. MCBATH. Thank you, Madam Chair, and thank you so much for conducting this oversight hearing today.

Thank you, Director Wray, for being here. We really appreciate your time and effort.

I represent Georgia, where we have unfortunately had some very high-profile incidents of violence in the very past few years, including the Ahmaud Arbery killing as recent and also eight individuals and including six women of Asian descent that just happened this past March. So, these shootings just have continued to rattle our communities and are especially troubling for communities of color.

Unfortunately, we know that these high-profile incidents are just part of a broader trend of increasing hate crimes that we are seeing all across the country. My colleagues have already earlier today just mentioned the startling statistics from the FBI's annual report showing the increases in hate crimes against Latinos, Jewish people, and those of Asian descent.

I just have one question in this regard there. How is the FBI taking steps to help local police respond to the rise in the anti-Asian hate crimes?

Mr. WRAY. So, as I mentioned, hate crimes are a high priority to me. You mentioned Georgia. Of course, that is my home as well, so I take those cases particularly seriously and personally there.

We do a number of different things.

One, we, obviously, investigate hate crimes wherever we can. As I mentioned, we have had the highest number of hate-crime initiations this year that we've had in the past five years and about a 63-percent increase in hate-crimes investigations initiated over the past couple of years or so. So, it's about 370, give or take, hate-crimes investigations ongoing right now.

We also provide support to State and local, because sometimes the most readily provable offense is a State or local offense. Even in those instances, we provide support with forensics expertise, that kind of thing.

We work with the Civil Rights Division over at the Justice Department to figure out when Federal charges can be brought.

We also do a lot of public outreach, both to the community and to law enforcement. One of the themes we've heard about a little bit already today and discussed is the fact that these crimes aren't reported reliably enough—it's just a chronically underreported area.

That is something that we need to reach out to the communities and to law enforcement, so we do trainings, liaison events. For example, in the AAPI community, I think we've done 60 or so events, liaison events, specifically targeting that community just since last March, right through the pandemic.

With the Jewish community, I think there have been 340 or so training and liaison events. I mentioned earlier, in New York, we recently put out sort of a public service campaign, including putting it in Hebrew and Yiddish to reach certain parts of the community that might be reluctant or unwilling to report.

So, there's a whole bunch of things like that that we are trying to do to help.

Ms. MCBATH. Thank you for that. I really appreciate it.

I'd also like to discuss, though, guns. Just recently, the President and the Attorney General proposed new regulations, for parts needed to build ghost guns to have serial numbers, and those that are purchased, seeing them undergoing background checks. As you know, ghost guns are firearms that can be easily produced from an online kit that requires no background check or has no serial number.

Is the current data showing an increase in ghost guns found at crimes scenes? You can just give me a simple "yes" or "no" answer to that.

Mr. WRAY. I am not sure I have the reliable numbers, but I do believe we are anecdotally starting to seize so-called ghost guns more and more frequently. Of course, in the wrong hands, those can be very dangerous, just like other kinds of guns. I believe, as you alluded to, DOJ has recently issued a proposed rule on the subject.

Ms. MCBATH. All right.

As you know, law enforcement relies heavily on gun tracing in their criminal investigations. I understand that law enforcement is just unable to trace those guns because they lack those serial numbers.

So, can you please tell us why gun tracing is so important? How does the inability to trace ghost guns impact criminal investigations and your own, the FBI's ability to help the public stay safe?

Mr. WRAY. Well, tracing firearms is a time-honored tactic in law enforcement investigations of crimes of violence. It's an all-too-common scenario where you are recovering a firearm and need to figure out where it came from. So, absolutely, it's something we need to do as much as we can.

That's why, for example, outside the concept of ghost guns, you have individuals, for example, who will obliterate serial numbers. The reason they try to obliterate the serial numbers is precisely the reason that you alluded to, which is they want to prevent us from being able to trace the weapon.

That is already a crime, to obliterate a serial number, but, certainly, it's a subject that is increasingly concerning to us as we start to seize ghost guns, so-called ghost guns, in a number of our cases.

Chair NADLER. [Presiding.] The time of the gentlelady—

Ms. MCBATH. Thank you.

I yield back the balance of my time. Thank you.

Chair NADLER. The gentlelady yields back.

Mr. Stanton?

Mr. STANTON. Thank you very much, Mr. Chair.

Good morning, Director Wray. Good afternoon, at this point. Before I begin, I just want to say thank you for the job that you do, and please pass on my thanks to the women and men who serve with you at the FBI. Their efforts are diligent, tireless, and too often thankless, so please let them know we appreciate their work.

I have a couple lines of questions that I have for you.

First, I'd like to ask you about an ongoing violent epidemic, an issue that's of critical importance to me and my home State of Arizona. As you may recall, the last time you testified before this Committee, we discussed the crisis of missing and murdered indigenous women and girls.

It's a grim reality that Native-American women are murdered at a rate 10 times the national average. For Native-American women, homicide is the third-leading cause of death. The National Crime Information Center has reported approximately 1,500 missing indigenous people, and Arizona, tragically, has the third-highest number of missing and murdered indigenous women and girls in the country.

Recently, Congress acted. We passed Savanna's Act, which directs the DOJ to review, revise, and develop protocols to address this crisis, and the Not Invisible Act, which coordinates intergovernmental efforts to combat this violence.

There is a Presidential task force addressing this crisis. Our former colleague, Secretary Deb Haaland, established the Missing and Murdered Unit at the Department of the Interior. The FBI has directed to enhance its investigations into missing and murdered indigenous women and girls.

So, as FBI Director, what specifically are you doing to seek justice for these victims? What are you doing to coordinate with other agencies? What additional training and resources are you providing to your agents in Indian Country?

Mr. WRAY. Well, I appreciate the question. I do remember our exchange from the last time we testified—or the last time I testified before this Committee on this subject.

Certainly, as you mentioned, there is the task force that's specifically focused on missing and murdered American Indians and Alaskan Natives.

Our primary vehicle to engage on this subject is through the FBI's Safe Trails Task Forces, which include not just FBI personnel but partner personnel from other agencies, including Tribal law enforcement. I think we have about 140, give or take, agents that I've dedicated specifically to those Safe Trails Task Forces.

That number is actually probably almost double that now, in a way, because, as you may know, in Oklahoma, because of the Supreme Court's *McGirt* decision, the range of crimes that's now considered Native-American jurisdiction has dramatically expanded. So, we have probably about 140 surged agents to deal with crime of the sort you are describing in that State.

I also took the head of our FBI field office in Arizona but also in New Mexico with me, together, and met with the head of the Navajo Nation and spent some time with his leadership team and drove around Indian Country to get a better sense of the challenges out there. I am told that I am the first FBI Director to ever go meet with them.

Mr. STANTON. Thank you, Director, very much.

I'd like to shift gears a little bit and talk some more about ransomware, a subject that other Members have asked about. In this case, I want to talk specifically about the issue of ransomware attacks that threaten local governments and local infrastructure.

Before serving in Congress, I served as a Mayor, Mayor of Phoenix, Arizona. So, I am particularly concerned about cyber criminals targeting our local governments. In recent years, we've seen major U.S. cities like Atlanta and Baltimore hampered by ransomware attacks.

So, based upon the data and pattern of attacks the Bureau has identified, what local infrastructure facilities do you believe are most at risk of being targeted? What can Congress and the FBI do to better support our local government officials?

Mr. WRAY. Well, I am not sure I could give you a specific type of local network that's most at risk, because it has less to do with the type of service they provide so much as it is with their own IT infrastructure and the vulnerability that it represents, combined with the perception that ransomware actors have that they would be a particularly easy-to-leverage target.

You are absolutely right that one of the trends we are particularly concerned about with ransomware is more sophisticated targeting of, for example, municipalities or in, say, States that are more rural, rural hospitals and things like that. School systems is another example.

So, we are trying to go after the ransomware actors through a variety of means. Our National Cyber Investigative Joint Task Force leads a whole-of-government campaign that's prioritizing the most damaging variants of ransomware and going after the entire cybercriminal ecosystem.

So, by that, I mean not just the people demanding the ransom, but the malware developers, the money launderers, the shady internet service providers. We are going after the actors, their helpers. We are going after the criminals' infrastructure. We are going after their cryptocurrency.

So, we are trying to engage in joint, sequenced operations designed to maximize the impact on the adversaries. Then we are trying to feed the information we get back and learn from those investigations in the form of intelligence that we share with potential victims—so, in your example, local governments, municipalities, but also all the victims in the private sector—indicators of compromise and things like that, and then working with CISA over at the Department of Homeland Security to better help those victims protect themselves.

This is—I used the expression before—a team sport. This is a team sport where the team is not just government, Federal government, not just, frankly, local government, but also, very importantly, the private sector in a whole variety of ways.

Chair NADLER. The gentleman's time has expired.

Ms. Dean?

Ms. DEAN. Thank you, Mr. Chair.

Thank you, Director Wray, for being here today, more importantly, for your service to our country. Especially, the tremendous, talented men and women of the FBI, thank you for their service.

As you've said often, the mission of the FBI is to protect the American people and to uphold the Constitution of the United States. Two important parts of that mission.

My first focus today will be on the scourge of gun violence and how we can partner, continue to partner. Because it's going to be

all-hands-on-deck to reduce and, I hope, someday eliminate the scourge of gun violence.

Before I came to Congress, I served in the Pennsylvania House for 6½ years and had the chance to meet with the State Police who administered our PICS system, the Pennsylvania Instant Check System. As you know, the FBI, administer the NICS system.

The difference between the two systems is important. The NICS system, has both, I want to say, operate with tremendous speed. I give all those who administer this great credit.

The PICS system has a difference that is critically important that I hope we will someday build into the NICS system. PICS allows 10 days for the State to try to get clarity on a background check to see if the person is a prohibited purchaser, and, after those 10 days, if there is not clarity, it defaults to “no.” The NICS system, as you know, allows just three days, and if it can’t get clarity, it defaults to allowing the purchase of the gun.

Sadly, we know that it was that same loophole that allowed Dylann Roof after three days to purchase a weapon which he later used to murder nine people at Emanuel AME Church in Charleston. Just several days later, it was revealed that he was a prohibited purchaser.

In 2018, more than 270,000 NICS background checks not completed within three business days resulted in more than 4,800 gun transfers to people whose background checks ultimately revealed they were prohibited purchasers. Per the most recent FBI report, about 3,000 people a year pass the NICS background checks as a result of this loophole.

We passed H.R. 1446, which would be the enhanced background closing of that Charleston loophole. Do you agree that NICS could be a more effective background system if we put forward that logical 10-day default to “no”?

Mr. WRAY. Well, as is customary, I am not in a position to comment on specific legislative proposals, as FBI Director, and get out in front of the Administration on that.

What I would say is that our NICS folks work incredibly hard, and, last year, even with 40 million, a record number of background checks, and even with the pandemic, they were still able to process 96 percent, or close to 96 percent, within the required time.

Certainly, it gets hard. COVID made it even harder, in many ways, because, of course, part of the drill—and it’s probably the same with PICS—they have to reach out to the State and local police.

Ms. DEAN. I appreciate that. I absolutely admire the work and the commitment of the folks who are administering NICS. With their pressure—the increased numbers and the increased pressure to get it done in three days, otherwise it’s allow the purchase, that has proven to be a lethal loophole, as we know, way too many times.

In November of 2017, Congress passed the Fix NICS Act—and it was following another shooting, in a church in Sutherland Springs, Texas—to ensure that Federal agencies were reporting convictions that would prohibit firearm ownership.

However, recent data shows a gross underreporting coming from DOD, in which all four military branches provided less than 31 percent of the requisite background check information.

Is the FBI committed to supporting agencies to meet the Fix NICS requirements?

Mr. WRAY. Well, certainly, the Fix NICS Act has been a big help to us, and we've had a significant, very significant, increase in new records over the past three years.

We are trying to do our part to engage with our partners, Federal, State, and local, to increase the information that's in there. That's the whole point, that's the essence of the system. We are doing a lot of outreach and engagement. We've got massive staffing and technological resources devoted to it, and we've asked for more in the various budgets that have been put forward.

Ms. DEAN. I know my time is up, sadly. There's so much more I'd like to you ask. I do hope that FBI will partner with us, the legislative branch and this Administration, to do something about gun violence.

Also, the second area that I wanted to make sure we talk about at some point is the use-of-force statistics and the collection of that data. So, maybe I'll have a chance to talk with you and your staff separately and offline.

With that, I yield back, and I thank you, Mr. Chair.

Chair NADLER. The gentlelady leads back.

Ms. Escobar?

Ms. ESCOBAR. Thank you, Mr. Chair.

Director Wray, thanks so much for being here, and many thanks to you and the women and men of the FBI for your service.

We know that, leading up to the January 6th attack, former President Donald Trump and others pushed the "big lie" that the election was stolen. We know that his political organization funded the January 6th "Stop the Steal" rally in Washington, DC. We know that he told his supporters to attend. At the rally, we know he whipped them up into a frenzy and warned them that if they, quote, "don't fight like hell, you are not going to have a country anymore," end quote. Then he directed them to go to the Capitol.

Leading up to and even still in the wake of the deadly attack on the Capitol, we've seen and heard Republican Members of Congress as well as Republican State and local leaders and candidates continue to spread the dangerous and deadly "big lie." We've also seen it amplified by very irresponsible media outlets.

Earlier, you told us, if you see something, say something. Well, I've seen and heard something, so I am telling you about it today. There's a new and dangerous lie. The former President is telegraphing that he will be reinstated in August. This lunacy is being amplified by incredibly irresponsible parties.

What's most alarming is that this new lie is quickly gaining support in Trump's political party. Currently, one in three Republicans believes he will be reinstated as President in August.

Despite everything we knew via open sources about threats of violence on January 6th, there were catastrophic failures leading up to the attack on our Capitol and on our democracy. Taking into consideration the growing popularity of this new dangerous lie, as FBI Director, is this on your radar? Are you concerned about this?

What are you doing ahead of August to prevent another January 6th?

Mr. WRAY. So, I guess a couple things I would say on this.

First, as I think I testified earlier, like former Attorney General Barr, like former Acting Attorney General Rosen, we've looked at the issue with an open mind, but we did not find the evidence of fraud that would have changed or could have changed the outcome of the Presidential election.

Now, as to rhetoric that's out there, I have to be careful not to be weighing in, as FBI Director, on different people's rhetoric. We speak through our work; we speak through our investigations.

We have a very, very active domestic terrorism investigation program. We have—even before January 6th, under my watch, we elevated, as you've heard me testify earlier today, elevated racially motivated violent extremism to our highest threat band. We have doubled—I doubled the amount of domestic terrorism investigations, including in this space, over the prior years. Now, with January 6th, that number has exponentially increased.

So, we are very actively at work on this subject and determined to do our part to make sure that what happened on January 6 never happens again.

Ms. ESCOBAR. Director Wray, are you paying attention to what's happening with regard to the claims about August, yes or no?

Mr. WRAY. We are looking at all sorts of information that's out there as we try to evaluate and distribute intelligence and conduct investigations. That's what I would say on that subject.

Ms. ESCOBAR. Okay.

Well, I want to shift now a little bit. We'll shift the subject to White supremacy, anti-immigrant rhetoric, and the threat that this toxic combination poses to security in communities like mine.

We have and will unfortunately continue to hear Republican Members of Congress try to paint immigrants as criminals, asylum seekers as invaders, and border communities like mine as unsafe. That rhetoric, especially the use of the word "invasion," which one of my colleagues on this Committee used multiple times in this hearing—the use of the word "invasion" is dangerous.

Indeed, that same language was used by a domestic terrorist who drove from his home in Allen, Texas, to my community, El Paso, Texas, on August 3rd to slaughter Mexicans and immigrants.

Members have more than once asked you questions about terrorists at the border. I am sure, Mr. Wray, as FBI Director, that you are aware that attempted entry into the U.S. by known terrorists is extremely rare on the southern border and, in fact, far more likely to happen and is happening frequently at airports.

So, when responding to questions like those you've heard from my colleagues about terrorists on the border, questions that are intended to fuel xenophobia, I am asking that you, as FBI Director, that you provide the context I just provided. It would be important to defuse the anti-immigrant rhetoric that puts communities like mine at risk.

I thank you for your testimony.

Mr. Chairman, I yield back.

Chair NADLER. The gentlelady yields back.

Mr. Jones?

Mr. JONES. Well, thank you, Mr. Chair.

Thank you, Director Wray, for your time today. You've been very patient with all of us.

Before I go further, I do want to encourage you to allow your staff to receive an education in critical race theory. I know that certain Members of this Committee could certainly benefit from that kind of educational experience.

Unsurprisingly, I want to ask you about what happened on January 6th.

A sitting Member of Congress recently described that assault as a, quote, "normal tourist visit," if you can imagine that. Would you describe what happened at the Capitol on January 6th as a, quote, "normal tourist visit"? Just yes or no.

Mr. WRAY. That's not the way I would describe it.

Mr. JONES. Okay. Thank you.

The insurrectionists were seen with handcuffs, zip ties, explosives devices, bear spray, and tactical gear. Director, yes or no, would you bring those weapons on a tourist visit to the Capitol?

Mr. WRAY. No.

Mr. JONES. Okay. Thank you.

The January 6th attack on the Capitol was planned out in the open. It was incited by the former President of the United States, make no mistake about that.

The danger did not end on January 6th. As many of my colleagues today have discussed, the threat of domestic terrorism by White supremacists, anti-government forces, and militias is at an all-time high.

With that in mind, Director, I want to ask you whether several troubling recent incidents raise red flags in your mind about these threats.

For example, Michael Flynn, the former National Security Advisor, said at a rally, quote, "I want to know why what happened in Myanmar can't happen here. No reason it shouldn't happen here."

Does that suggestion of a military coup raise a red flag to you, Director? A simple yes or no.

Mr. WRAY. With respect, I just don't think it's appropriate for me, as FBI Director, to be weighing in on other people's public comments.

It's not that I am not sympathetic to the reason you are asking the question, but, in my role, I think I have to be careful to speak through our work. When the FBI Director speaks, I speak through our investigations and our intelligence products.

So, I don't think I should be starting to start chiming in on other people's public chatter or rhetoric, no matter what it is.

Mr. JONES. Well, Director, it's true that you have an obligation to protect the American public, right? To the extent you can help the American public to understand what kind of dangerous rhetoric poses a threat to the safety and security of the American people, you can do so as a public service.

I mean, it's pretty simple, right? I mean, this guy is calling for a military coup. Is that something that would not be of concern to you in your capacity as the FBI Director?

Mr. WRAY. A military coup would be of great concern to me if I thought it was happening.

Mr. JONES. Thank you, Director.

Or consider this: Prominent officials within one party—I'll just say it—the Republican Party, have attended events and spoken alongside White nationalists, instigators of the insurrection on January 6th, and leaders of domestic terrorist groups.

When leaders of one of our major political parties in this country attend extremist events, does their attendance lend legitimacy to those extremists who are seeking to bring other folks into fold and convert people to their ideologies, yes or no?

Mr. WRAY. Again, I am not trying to be difficult here, but it's just, with respect, I don't think it's my role or the appropriate role for any FBI Director to be weighing in on other people's First Amendment activity.

What I think we need to do at the FBI is to Act through our work, to aggressively investigate domestic violent extremism, to aggressively investigate election influence or interference, to aggressively investigate the things that we are entrusted with investigating to protect the American people and uphold the Constitution.

Mr. JONES. Let me ask you this.

Mr. WRAY. It's not that I am unsympathetic to why you are asking the question, but I don't think that's my role.

Mr. JONES. I understand.

I suspect the answer is yes, if you were to be forthcoming about that.

How about this: A former attorney to President Trump falsely stated, quote, "It should be that he can simply be reinstated." I think you've heard other of my colleagues say this today. To finish this quote, "Biden is told to move out of the White House, and President Trump should be moved back in."

Could statements like that encourage attacks of the kind that we saw on January 6th, yes or no?

Mr. WRAY. Same answer.

Mr. JONES. Wow.

Director Wray, I've asked you these questions because the insurrectionists threatened more than our lives; they threatened our democracy, and the fact is, they still do. I hope that you see that.

Those who incited the assault with their calls to "stop the steal" now threaten to incite another one with their calls to stage a coup or to, quote, "reinstate" Donald Trump.

The violent far-right nationalism that caused the insurrection is still with us, stoked by elected officials and even the former, disgraced, defeated President of the United States, Donald J. Trump. The American people, sir, need to know that the FBI is working as hard to protect our democracy as the far right is working to overturn our democracy.

Chair NADLER. The gentleman's—

Mr. JONES. I hope that we can have that confidence.

I yield back, Mr. Chair.

Chair NADLER. The gentleman yields back.

Ms. Ross?

Ms. ROSS. Thank you very much, Mr. Chair.

Thank you very much, Director Wray, for being with us today and for your patience. I know it's been a long day.

I have two lines of questioning, so hopefully we can get through the first one quickly, because my second one is the area where Congresswoman Dean wanted to talk about, use of force.

The first I have to go to because I am from North Carolina, and it deals with the Colonial Pipeline. In my district, during that horrible week-long period, about three-quarters of our gas stations simply didn't have the fuel for my constituents.

Can you walk me through the different ways that a company employing inadequate cybersecurity measures could endanger Federal supply chains like this case, and especially with crucial needs like oil and gas infrastructure?

Mr. WRAY. Well, of course, a very good question, but I think a fulsome answer to that would way exceed the amount of time we have allotted. So, I want to be sensitive to your time constraints here.

Certainly, all critical infrastructure increasingly is dependent on internet connectivity and increasingly online. So, to the extent that a company doesn't have strong cybersecurity, we are more and more dependent on their cybersecurity for our physical security.

I think that's one of the things that the recent ransomware attacks demonstrate, is that it's not just affecting those companies, but it can affect the average American at the gas pump or when they're buying a hamburger.

Ms. ROSS. So, Director Wray, do you think that Congress should take actions to have mandatory cybersecurity standards for private folks doing critical infrastructure?

Mr. WRAY. Well, again, as I've said in response to other topics, I want to be careful about proposing or weighing in on specific legislation.

I will say that I do believe that the private-sector piece of our cybersecurity as a Nation is absolutely indispensable. Until we figure out a way to ensure that the private sector has adequate cybersecurity—and, maybe just as importantly, a key part of cybersecurity is closely latched up and informing, informing the Federal government, the FBI, CISA, et cetera—we are going to have a problem adequately defending the country.

So, I think anything that goes at those issues is something worth taking a close look at.

Ms. ROSS. Thank you very much for that answer.

On the use-of-force issue, I want to quickly follow up on that issue, especially since Representative Dean didn't get a chance to ask her question. I want to talk about the FBI's collection of use-of-force data.

I worked on this issue in North Carolina with full cooperation from law enforcement on traffic statistics and who gets stopped and who gets searched. We have a pretty model legislation in North Carolina for doing that.

Given the possibility that the FBI National Use-of-Force Data Collection Program may be discontinued as early as December of 2022, what other options are there for collecting law enforcement use-of-force data? What have you considered, and how long would it take to establish an alternative?

Mr. WRAY. Well, I'd be happy to have my staff help with more detailed information. What I would say is that we are working very

hard to increase the reporting, and we've been—of national use-of-force data, because we believe strongly that only through that are we going to be able to have a thoughtful, informed conversation that's actually based on the hard facts.

I think we've made good progress. I think we've recently now crossed the threshold of about 40 percent of sworn—I think that's about right—40 percent of sworn Federal, State, and local law enforcement officers across the country. We are driving hard to try to get that number high enough so that we can start sharing the results of that collection more broadly.

So, it was a big milestone, one of them, one of the milestones we crossed recently; allowed us to take certain steps. We are hoping to cross future milestones before too long. Anything that you can do to encourage the law enforcement community—not just you personally, but Members of Congress, can do to encourage State and local law enforcement in their communities to provide that data, that would certainly be appreciated.

Ms. ROSS. Well, I will certainly do that in North Carolina.

Do you have any estimated time for when you might be able to provide some information when you have a critical amount of that?

Chair NADLER. The gentlelady's time has expired. The Witness may answer the question.

Mr. WRAY. Let me have somebody follow up with you about where we are on time estimates. I am not sure if I've got the latest on that.

Ms. ROSS. Thank you, Mr. Director.

Mr. Chair, I yield back.

Chair NADLER. The gentlelady yields back.

Ms. Bush?

Ms. BUSH. St. Louis and I thank you, Chair, for convening this hearing today.

Director Wray, thank you for being here as well. Thank you for being here with us, taking this time.

So, as an activist and as an organizer from the front lines of the Ferguson movement, I am intimately aware of the tactics the Bureau has used when surveilling and investigating and intimidating activists like myself, from the height of the civil rights movement, to Ferguson in 2014, to today. We now know that the Bureau did, in fact, investigate and surveil those protesting for racial justice and against police brutality.

In anticipation of this hearing, I wrote to you on June 4th requesting access to all the information that the Bureau may have gathered about me since 2014, the Ferguson uprising, and up to now. When can I expect to hear back from the Bureau regarding that information?

Mr. WRAY. Congresswoman, I was just recently told that you had sent such a letter asking for information. As you know, we receive thousands of requests for files, as it were, and there's a process for that. I would be happy to have my staff follow up with yours to help you understand how the process works, and that can give you a little bit better sense about timing and other steps that have to be gone through.

Ms. BUSH. Okay.

Mr. WRAY. As you probably can determine from the way I've answered a lot of questions today, I am very much a process guy and I want to make sure we follow the process here.

Ms. BUSH. That's fine. Sure.

In the next 7 days, is it possible that we can get this resolved, possibly? I mean, we can go through the steps; I just want to—

Mr. WRAY. I'll have somebody follow up with you about the right process.

Ms. BUSH. We can follow up. Okay. Thank you.

I ask because I am concerned about the FBI's treatment of protesters. I want to walk through the FBI's response to the White supremacist insurrection on the Capitol and the FBI's response to mass protests that swept through the country last year seeking justice for George Floyd and for Breonna Taylor.

Isn't it true that the Department deputized and deployed thousands of Federal law enforcement, including FBI personnel, in, quote, "response to the events related to civil unrest," end quote, during the summer of 2020? A yes or no is fine.

Mr. WRAY. Well, I am not sure I have a yes or no answer to that.

I don't know that the FBI—I don't recall the FBI being deputized for things. The FBI fulfilled our mission, some of which I've described earlier in response to one of your colleague's questions.

Whether other agencies were deputized by the Justice Department would be a question better referred to the Justice Department.

Ms. BUSH. Okay. I think that the answer that we are looking for is yes. We have this information—we have evidence that the records that identify SWAT resources and special agent bomb techs, that they were deployed. That's what's in my hand.

What about, was the FBI authorized to use force in response to the January 6th White supremacist insurrection on the Capitol? Just a yes or a no.

Mr. WRAY. Was the—

Ms. BUSH. Was the FBI authorized to use force in response to the White supremacist attack on January the 6th?

Mr. WRAY. I think the—I am not aware of any specific authorization to use force. I think the FBI has policies about its use of force, and those policies would have been in effect on January 6.

Ms. BUSH. Thank you.

So, you stated earlier that the Bureau does not surveil First Amendment protests. Director Wray, isn't it true that the FBI did deploy some 120 surveillance aircraft—I know it was alluded to earlier—to monitor "Justice for George Floyd" protests around June 1st in Washington, DC? That can just be a yes or a no.

Mr. WRAY. Well, again, I am not sure it lends itself to a yes or no answer. We have specific policies that govern our use of various techniques and tools that we have available to us, the Attorney General guidelines and the DIOG that I referred to earlier.

Ms. BUSH. Okay.

Mr. WRAY. So, the circumstances under which we would've used aviation assets over the course of the summer would've been covered by those.

Ms. BUSH. So, yes, Director, here are the flight path records.

I'd like to introduce this article that cites the flight path records—flight paths into the record.
[The information follows:]

MS. BUSH FOR THE RECORD

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FBI Conducted Aerial Surveillance Of Black Lives Matter Protests In DC



SCIENCE

The FBI Used Its Most Advanced Spy Plane To Watch Black Lives Matter Protests

The aircraft is normally used to provide surveillance for big federal drug and gang busts — but flew over the Black Lives Matter protests in DC earlier this month, as well as over Baltimore during the protests following Freddie Gray's death.



Peter Aldhous
BuzzFeed News Reporter

Posted on June 20, 2020 at 10:35 am



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The FBI's Cessna Citation jet.

HR Planespotter

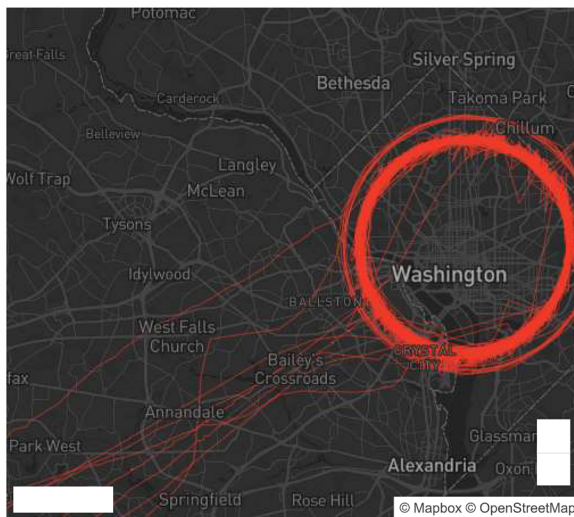
Shortly before 11 p.m. on Monday, June 1, just hours after federal police used tear gas and batons to clear protesters from the front of the White House for President Donald Trump's Bible-wielding photo op, a Cessna Citation jet took off from Manassas Regional Airport in Virginia. Until about 1.30 a.m., it flew in a 7-mile circle around central Washington, DC, surveilling the protests, flight tracking records show.

The aircraft is a one-of-a-kind spy plane operated by the FBI, fitted with sophisticated cameras for long-range, persistent video surveillance, day or night. It repeated its late-night circling around the city as protests continued the following two nights, and made a shorter flight on June 6.

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Flights by the FBI's Cessna Citation jet from June 1 to June 6. *Peter Aldhous / BuzzFeed News / Via ADS-B Exchange / Flightradar24*

Normally, this elite spy plane is deployed for some of the FBI's most important surveillance missions, providing eyes in the sky when federal agents arrest drug traffickers or violent gang members. But this isn't the first time it has flown over Black Lives Matter protests: A BuzzFeed News review of flight tracking records has established that the same aircraft circled above Baltimore in April and May of 2015, during the unrest that followed the death of Freddie Gray from severe injuries sustained in police custody.

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FBI surveillance of protests, even if they happen after a curfew has been declared, is controversial because the agency says it does not monitor activity protected by the First Amendment.

"It's now been well documented that a number of federal agencies wildly overreacted to protests in DC in deeply troubling ways," Nathan Freed Wessler, an attorney with the American Civil Liberties Union's Project on Speech, Privacy, and Technology, told BuzzFeed News. "To learn that the FBI deployed its state-of-the-art surveillance plane to watch these historic protests raises additional troubling questions."

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The FBI has a fleet of more than 120 surveillance aircraft, covertly registered to fictitious companies. In 2016, BuzzFeed News analyzed more than four months of flights by these planes.

"It should come as no surprise that the FBI uses planes to follow terrorists, spies, and serious criminals," said then-deputy director Mark Giuliano in June 2015, in a rare public statement on the agency's aviation program. "We have an obligation to follow those people who want to hurt our country and its citizens, and we will continue to do so."

The vast majority of the FBI's planes are small, propeller-driven Cessnas, according to Federal Aviation Administration registration records for the agency's front companies. The jet that flew over BLM protests is the only aircraft of its type operated by known FBI fronts. It is registered to the National Aircraft Leasing Corporation, identified as an FBI alias in the 2012 book *Intel Wars*, an analysis of the "war on terror" written by the

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former intelligence analyst Matthew Aid. The address given on the plane's registration documents is a UPS Store in Greenville, Delaware.

Other FAA documents, submitted to verify that the plane is safe to fly, reveal how it has been outfitted for advanced surveillance.

It was fitted with video cameras in 2006, by a company called Alpha Research & Technology. Photos on the firm's website show the plane and the two-person, three-screen console used to control its surveillance cameras from inside the main cabin. The plane now carries a Wescam MX-20 steerable camera turret, described by its manufacturer as ideal for high-altitude, persistent surveillance. It can monitor targets day and night, see through haze, and provide infrared thermal imaging.

L3 WESCAM's MX™-20 Product Video



youtube.com

Other FBI planes carry less capable cameras requiring the aircraft to fly at altitudes of around 5,000 feet, where they would more easily be spotted from the ground. Those planes watch suspects in FBI investigations in the same region as their home airport. The Citation jet, by contrast, is deployed across the entire nation, and often circles its

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targets at altitudes of 15,000 feet or more. During the flights above Washington, DC, in early June, it flew at between 13,000 and 17,500 feet.

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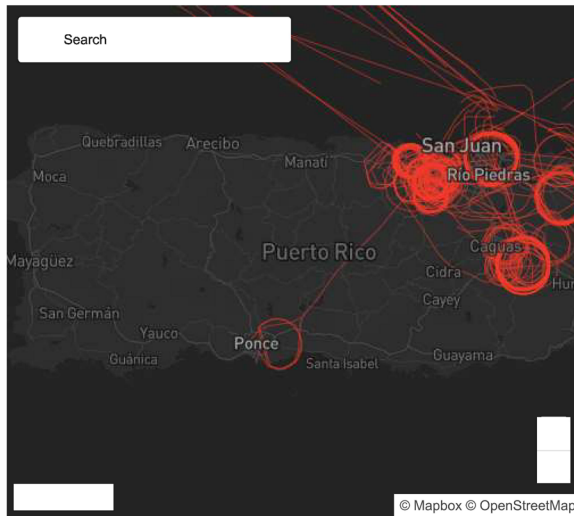
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BuzzFeed News obtained flight tracking records for the plane going back to the start of 2015 from the website [Flightradar24](#), linking several of its flights to high-profile raids on drug traffickers and violent gangs. These included [major drug trafficking busts in Puerto Rico in 2018 and 2019](#), [drug and money laundering arrests in northern Alabama in October 2019](#), and the [capture of members of prisoner-led gangs in Woodland, Northern California, in February 2018](#).

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Flights by the FBI's Cessna Citation jet across the US from January 2015 to May 2020. Use the search box to look in other locations and click on the tracks for the dates of the flights. *Peter Aldhous / BuzzFeed News / Via Flightradar24*

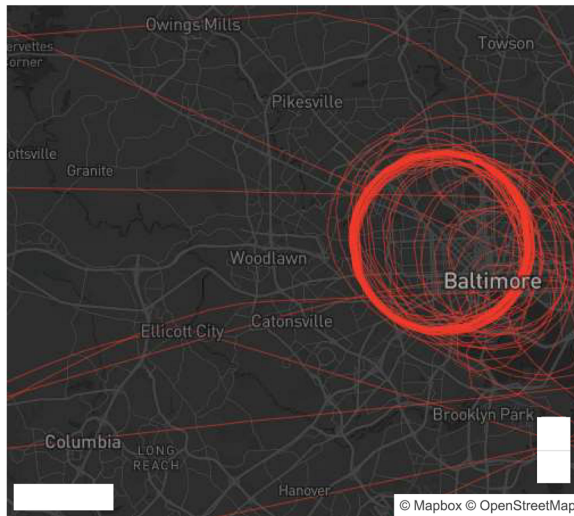
But the plane's recent outing above DC is not the first time it has watched BLM protests. In May 2015, the ACLU noted that an unidentified Cessna Citation had circled above Baltimore during the unrest triggered by the death of Freddie Gray. An FBI propeller-driven Cessna was also tracked circling over the city at that time.

Through a Freedom of Information request to the FBI, the ACLU later obtained flight and evidence logs from the agency's flights over Baltimore, plus video surveillance footage recorded by its planes.

In 2015, the FBI Cessna Citation's identity was masked on public flight tracking websites, but from the Flightradar24 data BuzzFeed News has now confirmed that the same plane that flew over the BLM protests in DC in June following George Floyd's death also conducted surveillance in Baltimore after Freddie Gray was killed.

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Flights by the FBI's Cessna Citation jet from April 29 to May 3, 2015. *Peter Aldhous / BuzzFeed News / Via Flightradar24*

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Although there had been violent clashes and looting in the days before the FBI planes were deployed above Baltimore, more than 18 hours of video footage subsequently released by the agency showed peaceful marches and people moving around on the streets at night.

In 2015, the Baltimore Police Department asked for the FBI's help in monitoring unrest in the city. But the DC Metropolitan Police Department said it did not request the flights above the nation's capital in early June.

"MPD did not request FBI aerial support," department spokesperson Alaina Gertz told BuzzFeed News by email.

The surveillance flights over DC began the day after another branch of the Department of Justice, the Drug Enforcement Administration, was given the authority to "conduct covert surveillance" and collect intelligence on people protesting the killing of George Floyd by Minneapolis police.

The FBI can also equip its planes with devices called cell site simulators that mimic a cellphone tower and can be used to locate and track people via their phones. But Heath Hardman, a lawyer who used to operate similar devices for the US Marine Corps, could find no evidence of antennas that would be used for this purpose in the FAA documents for the Citation jet, and said that a plane tracking phones would be unlikely to fly so high. "You want to be as low as you can without being detected," he told BuzzFeed News.

The FBI declined to answer specific questions from BuzzFeed News about the evidence collected by the plane, and whether it conducted any forms of surveillance other than video monitoring.

"The FBI is supporting our state, local, and federal law enforcement partners with maintaining public safety in the communities we serve," the agency responded in a written statement. "Our efforts are focused on identifying, investigating, and disrupting individuals that are inciting violence and engaging in criminal activity. The FBI respects those who are exercising their First Amendment rights, including the right to peacefully protest."

The FBI's Cessna jet wasn't the only sophisticated government spy plane to fly over DC in early June. On June 3 and 4, an RC-26 surveillance aircraft operated by the Air National Guard flew in tighter circles at altitudes of less than 7,000 feet. These planes, like the FBI's jet, are commonly used in counter-drug trafficking operations.

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FBI Conducted Aerial Surveillance Of Black Lives Matter Protests In DC

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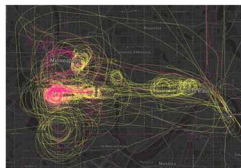
The Air National Guard told Air Force magazine that these flights were “responding to a District of Columbia National Guard request to provide airborne situational awareness of key lines of communication and critical infrastructure within the District.”

The Air Force Inspector General is now investigating whether this aircraft improperly monitored protesters, the New York Times reported on June 18.

“It would be inappropriate to comment further at this time due to the ongoing nature of the investigation,” National Guard spokesperson Wayne Hall told BuzzFeed News by email.

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10/26

Ms. BUSH. Was the FBI authorized to conduct surveillance or deploy surveillance aircraft and/or drones in response to the January 6th White supremacist insurrection on the Capitol, yes or no? I am going to—I would love for you to answer that.

Mr. WRAY. I don't recall whether or not aviation assets were called for or used in the January 6th.

Ms. BUSH. Well, you can just—that's fine. That's fine.

Mr. WRAY. I just don't know off the top of my head.

Ms. BUSH. Okay. The evidence is clear. We've witnessed it with our own eyes. The Bureau has a White supremacy problem within its ranks. The choice to not pursue White supremacist violence like what we saw on January 6th is not because the Bureau does not have the resources or the statutory discretion to do so; it is a blatant dismissal of White supremacy as a threat. It is racist. It's unethical. It's unconscionable.

Protestors last summer rose up to save lives, and they were violently removed with chemical weapons, pepper spray, tear gas, smoke canisters, stun grenades, and rubber bullets.

That's why we, as activists and protesters, must continue to pursue transparency from the Bureau. I am talking to activists right now: File your FOIA requests.

We are not a threat.

Thank you, and I yield back.

Chair NADLER. The gentlelady yields back.

This concludes today's hearing. We thank Director Wray for participating.

Without objection, all Members will have 5 legislative days to submit additional written questions for the Witness or additional materials for the record.

Chair NADLER. Without objection, the hearing is adjourned.

[Whereupon, at 3:32 p.m., the Committee was adjourned.]

**QUESTIONS AND RESPONSES FOR THE
RECORD**

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION
DIRECTOR CHRISTOPHER WRAY

JUNE 10, 2021

Questions For The Record
Submitted By Rep. Zoe Lofgren

1. Over the past year, there have been multiple press reports that government law enforcement and surveillance agencies, including the FBI, have bought large volumes of personal data and other information linked to individual persons in the United States – including information originally collected from and/or generated by the activities of individual users of electronic devices and online services – from private data brokers and other private sources. I have several related questions:
 - a. Does the FBI purchase any products or services from private entities that give it either direct or indirect access to nonpublic information originally collected from and/or generated by the activities of individual users of electronic devices, software and/or online services? To be clear, this question would include services that allow the FBI to search or otherwise use databases of such privately collected data, even if the agency does not take immediate possession of databases or information itself.
 - b. In what year did the FBI first start making such purchases?
 - c. What types of such personal information (*i.e.*, that is linked or otherwise related to an identifiable individual) have been included in such purchases? In particular (and without limiting other categories identified in a complete response to the above question), which of the following have been included: geolocation data; photographic or video images of recognizable faces; information reflecting user activity on social media websites and services; information reflecting logs, histories, or equivalents of user activities in web browsers or other software applications?
 - d. For what purposes does the FBI use personal information purchased from private entities (including any products and services giving either direct or indirect access to such information)?
 - e. Has any such information purchased from private entities been used in the course of criminal investigations by the FBI? If so, are the defendants in any legal proceedings resulting from such investigations notified about these uses of purchased information?
2. Section 702 prohibits the FBI from "intentionally target[ing] a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States." Has the FBI used Section 702 to acquire information when targeting a particular, known person reasonably believed to be in the United States is **one of several** purposes of the acquisition? In other words, does the FBI understand Section 702 (as codified in 50

U.S.C. § 1881a(b)(2)) to prohibit an acquisition targeting a particular, known person reasonably believed to be in the United States only if that is the **sole** purpose of such targeting?

3. Has the FBI purchased internet metadata, including “netflow” and Domain Name System (DNS) records?
4. Has the FBI purchased domestic internet communications (in which the sender and all recipients are associated with U.S. IP addresses)?
5. Has the FBI purchased internet communications in which one party is associated with a U.S. IP address and another party is associated with a non-U.S. IP address?

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION
DIRECTOR CHRISTOPHER WRAY

JUNE 10, 2021

Questions For The Record
Submitted By Rep. Sheila Jackson Lee

On January 6th the domestic terrorists who beat law enforcement officers and breached the Citadel of democracy of the United States wore insignias of White Supremacist groups, waved confederate flags, hung a noose on the lawn, and they were shouting racial epithets. As indicated, NYPD sent a packet of raw intelligence concerning potential violence.

Q1: With all of that information, including an assessment at headquarters why did the FBI not issue a formal threat assessment that violence at the U.S. Capitol on January 6, 2021 was a foreseeable probability? Also, please explain in detail what other actions, if any, were taken by the FBI. Provide documentation.

The Norfolk FBI office issued a Situational Information Report (SIR) which contained the following message from extremist groups it had been monitoring:

“Be ready to fight, Congress needs to hear glass breaking, doors being kicked in, and blood from their BLM, Black Lives Matter, and ANTIFA slave soldiers being spilled. Get violent, stop calling this a march, or rally, or protest. Get ready for war.”

Q2: Would you agree that these words clearly indicate racial bias and an attempt to use race and racism as a potential motive for violence?

Q3: Was the FBI aware of online threats to the Vice President, Speaker of the House, and specific members of Congress connected with January 6th?

Q4: On the day of, but in advance of the January 6 insurrection at the U.S. Capitol, did FBI Headquarters contact the Vice President? The Speaker of the House? Any member of Congress on the day of January 6th? Please copies documenting any such communications.

Let us explore the connection of race and Donald Trump, who was President of the United States during the events in question, the president, former president of the United States. On December 19th, he tweeted: “Big protest in D.C on January 6th, be there, will be wild.” At 12:15 p.m. on January 6th he said to the assembled multitude on the Ellipse: “You will never take back our country with weakness.” Less than an hour later, at 1:10 p.m., he admonished the crowd: “We fight like hell, and if you don’t fight like hell you will not have a country anymore.” At 2:11 p.m. the Trump-incited mob breached police lines on the west side of the capitol.

Q5: Is it the position of the FBI that in the totality of the circumstances the words of Donald Trump cited above indicate that the former President knowingly motivated the domestic terrorist attack on January 6th. Have any of these words been reviewed to determine whether Donald

Trump should be referred to the Department of Justice for investigation, arrest, and prosecution in connection with January 6, 2021 attack on the U.S. Capitol. Please provide documents supporting your response.

There are only 4.7% of African American in the FBI. Much has come to my attention of the lack of promotion, opportunities for leadership in the FBI, and the diversity office that you have does not report directly to the FBI director.

Q6: Please provide in writing a status update on the FBI's actions to ensure diversity and equality of opportunity within the Bureau, especially for racial and ethnic minorities, particularly African Americans?

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION
DIRECTOR CHRISTOPHER WRAY

JUNE 10, 2021

Questions For The Record
Submitted By Rep. Tom McClintock

1. How many persons on the Terrorist Watch List have been encountered this year crossing through our southern border and how many persons with criminal records or criminal warrants have been encountered this year crossing our southern border?
2. What is the current FBI estimate of how many terrorists, criminals, and gang members are among the hundreds of thousands of got-aways the Border Patrol was not able to intercept?
3. On that point, House Republican Leader Kevin McCarthy sent you a letter in April requesting a briefing on this subject. Will you commit to providing all members of this committee with the briefing you provided to Mr. McCarthy to keep us fully informed on this issue?
4. With regards to announcement of the Joint Task Force Alpha to combat the human trafficking that the Biden open border policies made possible, how many agents will be assigned to this endeavor? How much money will back this task force?

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION
DIRECTOR CHRISTOPHER WRAY

JUNE 10, 2021

Questions For The Record
Submitted By Rep. Scott Fitzgerald

1. According to the Department of Homeland Security, upwards of 80-90% of counterfeit goods globally originate in China, costing U.S. manufacturers and other businesses billions of dollars annually. Similarly, China is responsible for an enormous share of global piracy of American movies, music, sports broadcasts, and other content protected by intellectual property. There are criminal statutes in place to prosecute those responsible, and the Justice Department and FBI have an important role together with DHS to fight these criminals. As the head of the country's top law enforcement agency, what steps are you and the Biden Administration taking to prevent IP theft?
2. You and the FBI hold an important role in the Biden Administration in protecting American citizens and businesses from Chinese IP theft. But the Administration recently announced plans to support foreign adversaries, including China, in taking U.S. intellectual property relating to COVID-19 vaccines, including state-of-the-art new mRNA drug development platforms. Have you or anyone else in the Administration, to your knowledge, advised the President that supporting foreign countries' waivers of this U.S. intellectual property essentially endorses IP theft?
3. The crisis at the Southern border was caused by the radical immigration policies of the Biden Administration and raises serious national security risks. The FBI utilizes several programs that target fentanyl crimes, including the Prescription Drug Initiative, Safe Street Task Forces, J-CODE, and the Transnational Organized Crime Programs. I introduced the Stopping Overdoses of Fentanyl Analogues Act to keep fentanyl designated as a schedule I drug. Can you comment on the affect that designation, which was put in place in February 2018, has had on the flow of fentanyl and its derivatives into the United States?

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION
DIRECTOR CHRISTOPHER WRAY

JUNE 10, 2021

Questions For The Record
Submitted By Rep. Cliff Bentz

1. The Western United States is suffering from the impact of the greatest drought in modern history. Some 70 million people are affected, and almost the entire west half of the U.S. is at risk. One of the unfortunate impacts of the drought is to turn our beautiful usually green millions upon millions of acres of forest into tinder dry opportunities for massive and cataclysmic infernos capable of causing billions in damage, loss of thousands of homes, and destruction of human and animal life. Many communities are just a single match strike away from disaster. What is the FBI doing to anticipate the possibility of terrorists using our forests against us as a weapon of mass destruction?
2. In your opening remarks you mentioned the “attacks on minorities, Asians, Pacific Islanders, and Jewish people”. These attacks appear to be prompted by the worst kind of racial bias. I also note that recently Attorney General Garland, in speaking about White Supremacy, described supremacists as “specifically those who advocate for the superiority of the white race.” In this time of past due sensitivity toward challenges facing minorities in the United States, why is the FBI failing to bring its own demographics into some meaningful comparison to the percentages of minorities and women in our country? (To the point I note that only 4% of the Agency is black, and that the Agencies’ “special agents” as of February of last year were 79.1% male. This is a problem of long duration apparently the result of means the Agency uses to select and then advance agents in the system.)
3. I quote: “China’s theft of technology is the biggest law enforcement threat to the United States”. This is from a presentation you gave on February 6th, 2020. What is the Agency doing in this area and does it have the funding to adequately address this challenge?
4. Cyber security and Artificial Intelligence are two of the greatest threats to America. Does your Agency have the technical expertise and staff needed to keep up with China, Russia and other countries engaged in these spaces?